UNITED
NATIONS

CRC

Convention on the
Rights of the Child

Distr.
GENERAL

CRC/C/3/Add.37
13 November 1995

ENGLISH
Original: SPANISH

COMMITTEE ON THE RIGHTS OF THE CHILD

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 44 OF THE CONVENTION

Initial reports of States Parties due in 1992

Addendum *

URUGUAY

[2 August 1995]

Introduction

Geographical situation

1. The Republic of Uruguay lies on the left bank of the River Plate and the River Uruguay and has borders with the Republic of Argentina and the Federative Republic of Brazil. It has a total area of 318,392 km^2, including its mainland, islands, lakes, rivers and territorial sea. The average altitude is 116.70 m, with a high point of 513.66 m on Cerro Catedral in the Sierra Carapé. The latitude is 34° 22′ 58″ S. The longitude is 54° 40′ 26″ W.

Population

2. The latest population and housing census produced the figures given in annex 1.[1/]

---

* The annexes to this report are available for consultation in the Secretariat's files.

[1/] See annex 1: Results of the latest population and housing census, 1985.

Political and economic background

3. Since early in its history the social legislation of the Republic of Uruguay has always been advanced for the time of its adoption. The specific legislation on the rights of the child dates back to 1934, when the Children's Code was promulgated and came into force.

4. From the 1930s to the 1960s the economic growth indicators were very good, and the child mortality and literacy rates were important social benchmarks of the high living standards of most Uruguayans. The 1970s and 1980s saw the institutional breakdown and the military dictatorship which came to rule the country, with the harmful consequences which that situation had for respect for human rights and fundamental freedoms.

5. The peaceful settlement and non-violent transition in 1985 were the result of a considerable effort by all social sectors to bind up the wounds of the past and formulate long-term policies to overcome the economic deficits. The improvement of living conditions took a sharp upturn from 1985 in a constant trend which has lasted up to the present. Inflation levels have fallen considerably. The inflation rate stood at 128.9 per cent in 1990 but was down to 44 per cent by 1994. Real wages improved by 1.5 per cent in the period 1990-1994.2/

6. The Government believes that this success is due to its policy of commercial liberalization, which has resulted in a greater supply of consumer goods at lower prices and higher living standards for the middle and lower strata of society. The basic economic policies were to reduce public expenditure and the fiscal deficit, to accord priority to social measures, including the construction of housing for the neediest population groups, and to reform the State by privatizing the public banks.

7. With regard to the variables mentioned above, the number of people with unsatisfied basic needs fell significantly in the country's capital, from 10.4 per cent in 1984 to 4.8 per cent in 1993. In the hinterland towns the figure fell from 22.5 per cent to 14 per cent in 1993.

8. At the regional level the gamble of joining the Common Market of the South indicates Uruguay's expectation of growth in the context of the objectives of economic solidarity and honest negotiation which characterized the agreements. The long-awaited proposals of the Common Market redounded to the collective benefit of our Uruguayan, Argentinian, Brazilian and Paraguayan children.

System of Government

9. The Republic of Uruguay adopted the democratic republican system. Sovereignty is vested in the people and is exercised directly by the electorate through elections, initiatives and referendums, and indirectly through the representative branches (Executive, Legislature and Judiciary).

2/ See annex 2: Report of the General Coordinator of the Economic and Financial Advisory Service of the Ministry of the Economy and Finance.

Structure of the Legislature

10. The Legislature consists of the two chambers of the General Assembly. The Chamber of Deputies has 99 members elected directly by the people under a system of proportional representation. The Senate has 30 members elected directly by popular vote under a system of comprehensive proportional representation. Election to the posts of senator and deputy is subject to certain requirements. Deputies must be at least 25 years old, Uruguayan by birth or naturalized Uruguayan for five years. Senators must be at least 30 years old, Uruguayan by birth or naturalized Uruguayan for seven years.

11. Article 91 of the Constitution states that the following persons may not be deputies:

(a) The President and Vice-President of the Republic, members of the Judiciary, the Administrative Court and the Electoral Court, members of the councils or boards of directors of the autonomous bodies, decentralized services and departmental or local councils, and mayors or governors;

(b) Military or civilian employees of the Legislature, Executive or Judiciary, the Electoral Court, the Administrative Court, the Court of Audit, the departmental governments, and the autonomous bodies and decentralized services if they receive a salary, except for retirees or pensioners. This provision does not apply to university teaching positions or to other university personnel with teaching functions, but if the elected representative chooses to continue in such a position, it must be on an honorary basis for his term of office. Members of the military who resign their posts and salary in order to serve in the Legislature retain their rank, but for the duration of their legislative functions they may not be promoted and are exempt from all military discipline, and the time during which they hold their legislative positions is not counted for purposes of seniority for promotion.

12. In the case of senators, the list of disqualified persons also includes judges and public prosecutors, police officers and members of the military commanding forces or actively performing any other military function, unless they resign their positions three months prior to the election.

13. The functions of the General Assembly are set out in article 85 of the Constitution.

Structure of the Executive

14. The Executive consists of the President and Vice-President of the Republic and the Council of Ministers.

15. The President and Vice-President are elected directly by a simple majority of the popular vote under the simultaneous dual vote system.

16. The Vice-President of the Republic is also President of the General Assembly and of the Senate.

17. The President and Vice-President must be of Uruguayan birth and at least 35 years old. Their term of office is five years and they may be reelected provided that five years have elapsed since the end of their first term.

18. The Council of Ministers consists of the heads of the various ministries having exclusive powers over their respective portfolios. Membership of the Council of Ministers is subject to the same requirements and disqualifications as for the Senate.

19. At present Uruguay has the following ministries:

Ministry of the Interior;

Ministry of the Economy and Finance;

Ministry of Foreign Affairs;

Ministry of National Defence;

Ministry of Labour and Social Security;

Ministry of Industry, Energy and Mining;

Ministry of Transport and Public Works;

Ministry of Housing, Regional Planning and the Environment;

Ministry of Livestock, Agriculture and Fisheries;

Ministry of Education and Culture;

Ministry of Tourism.

20. The functions of the Executive are set out in article 168 of the Constitution.[3]

Structure of the Judiciary

21. The Judiciary consists of the Supreme Court of Justice and the country's courts and tribunals. The Supreme Court of Justice consists of five members nominated by the Executive and elected by a qualified majority of two-thirds of the votes of all the members of the General Assembly.

22. The appointments must be made within 90 days of the post's falling vacant. If no appointment is made within this period, the post is assigned to the longest-serving member of the Appeals Court.

23. The maximum term of office is 10 years, with the possibility of reelection provided that five years have elapsed since the end of the earlier term of office.

24. The Judiciary consists of:

The Supreme Court of Justice;

The Appeals Court;

The judges;

The justices of the peace;

The misdemeanour courts.

---

[3] See annex 3 for the full text of the Constitution.

25. The holders of all these posts must be qualified lawyers or public notaries.

26. Article 254 of the Constitution stipulates that justice shall be free for all persons declared poor in accordance with the law.

27. The powers of the Supreme Court of Justice are set out in article 239 of the Constitution.

Authorities responsible for ensuring respect for human rights

28. The fundamental human rights are guaranteed in the preambular part of the Constitution. The list of rights and guarantees includes civil and political rights (arts. 7 to 40) and economic, social and cultural rights (arts. 40 to 71).

29. Furthermore, article 72 states that the list is not exhaustive or restrictive, for the other rights inherent in the human person or derived from the republican form of government cannot be excluded from the protection of the State.

30. In accordance with this provision and since the international treaties ratified by Uruguay acquire the internal legal status of ordinary law, the category of rights enjoying internal protection is dynamic and expanding.

31. All the authorities of the State have an obligation to respect the Constitution and the law. All violations of human rights constituting crimes or misdemeanours are tried by the impartial and independent courts of the Judiciary. If the crimes or misdemeanours are not specified in legislation, they fall subject to article 331 of the Constitution, which states:

> "The provisions of this Constitution which recognise individual rights, as well as those which confer powers and impose duties on the public authorities, shall not be without effect by reason of the lack of corresponding regulations, but such regulations shall be supplied on the basis of analogous laws, general principles of justice, and generally accepted doctrines."

Available recourse in the event of violation of human rights

32. The existing means of recourse provide a range of possibilities, depending on the nature of the violated right, the source of the violation, and its perpetrator.

Juridical nature of the violated right

33. Violations of fundamental rights such as the rights to life, physical integrity and freedom constitute criminal offences punishable by law. Uruguay's internal law provides the recourse of habeas corpus to protect personal freedom. Article 17 of the Constitution states:

> "In the event of unlawful detention, the person concerned or any other person may apply to the competent judge for a writ of habeas corpus

> requiring the detaining authority immediately to explain and justify the legal grounds for the detention, the decision of the aforementioned judge being final."

34. There is also the recourse of amparo, which was incorporated in the law relatively recently. Law No. 16,011 of 19 December 1988 states:

> "Any act or omission on the part of the State or para-State authorities or on the part of individuals which may immediately or imminently harm, restrict, alter or threaten in an clearly illegal manner any of the rights or freedoms explicitly or implicitly recognized in the Constitution may be subject to a writ of amparo."

Source of the violation

35. The source of the violation may take various forms: (a) a law; (b) a decree; or (c) an administrative act or decision.

36. If the source of the violation lies in the law, an action of unconstitutionality may be brought before the Supreme Court of Justice. Any person who believes himself to have been damaged in his direct, personal and legitimate interests has an active legal right to bring an action of unconstitutionality.

37. The Court's decision applies to the specific case without having any general scope and its effect is limited to the case in which it is handed down. An action of unconstitutionality may be brought by the electorate. Article 79 of the Constitution establishes a mechanism of direct democracy in the form of the referendum. The recourse of referendum may be brought against a law by 25 per cent of the total number of registered voters within one year of its promulgation, and the same proportion of voters has the right of initiative (proposal of laws) in the Legislature.

38. This means of recourse may be used against the whole of a law or against any of its articles, and the decision as to its admissibility falls within the exclusive competence of the supreme body in electoral matters, the Electoral Court.

39. If the violation has its source in an Executive decree, an action for its repeal and annulment may be brought before the Administrative Court.

40. Article 303 of the Constitution states that the decrees of departmental councils, which have the force of local regulations, may be appealed to the Legislature (Chamber of Deputies).

41. Administrative decisions may be challenged by means of an application for reversal lodged with the authority which took the decision. In the case of a subordinate authority the application for reversal must be made jointly with an application to the superior body. If these two means of recourse do not result in a decision in favour of the person suffering the harm, he is entitled to bring an action to have the decision declared null. Such actions may be brought once the means of administrative recourse are exhausted and are heard by the Administrative Court, which has jurisdiction over administrative decisions.

This Court will hear applications to nullify administrative decisions of the Government which are in conflict with a rule of law or have been taken ultra vires.

Compensation for victims

42. The victim of a violation of human rights has civil and administrative means of recourse to claim compensation for the damage suffered. When the damage is caused by an employee of the State, the victim may bring an action against the State itself, which is responsible for the damage in civil law. All this is without prejudice to the claims which the State may make against a public employee who caused the harm through gross negligence or fraud (art. 25 of the Constitution).

International human rights legislation and internal law

43. In Uruguay's internal law the Executive, acting through its agents, has the right to sign international treaties and is authorized to deposit the instruments of ratification or accession once the treaty has obtained parliamentary approval.

44. Accordingly, the procedure for establishing the will of the Uruguayan State to enter into an international commitment requires approval in internal law. This means that an ordinary law must be enacted in order for a treaty to become part of positive national law.

45. In the absence of an express constitutional or legal provision resolving the question of the legal precedence of a treaty for Uruguay, the doctrine is that all treaties have a status equal to that of an ordinary law. There is currently a clear trend for Uruguay's courts to apply the provisions of international agreements directly in their internal jurisdiction.

Dissemination and publicizing of these reports

46. There is no authority in the organic structure of the State having specific responsibilities in the field of human rights. As stated above, the internal protection stems from the combined effect of functions and powers shared between the Executive, the Legislature and the Judiciary. This is born out by the preparation of this report, for its drafting was entrusted to the Human Rights Section of the Ministry of Foreign Affairs, but contributions were also made by various public authorities and non-governmental organizations which decided to cooperate in the undertaking:

Public institutions

National Minors' Institute (INAME);

Social Policies Division of the Office of Planning and Budget (OPP);

Ministry of the Interior;

Ministry of Education and Culture.

Non-governmental organizations

Non-governmental Committee to Monitor the Convention on the Rights of the Child (Service, Peace and Justice in Latin America (SERPAJ), Defence for Children International (DCI), Children's Forum, etc.);

Assembly of Disabled Persons.

Children in Uruguay

47. Owing to the country's low birth rates, changes in reproductive behaviour, and emigration by persons of reproductive age, children constitute a small population group in Uruguay. According to the forecasts of the National Statistical Institute for the five-year period 1995-2000, the annual population growth rate will be 6.43 per thousand, which indicates that the demographic trend will not undergo any significant reversal in the near future. The ageing of Uruguay's population means that the proportion of children aged under 15 is tending to decline in relation to the over-60 group which is increasing numerically. Today's emigrants are younger and better educated people, leaving the burden of biological and social reproduction to those population groups which are in a less favourable economic situation. A 1994 study shows that 27.7 per cent of children aged under 14 in Montevideo and 47.2 per cent in the rural interior live and grow up in households which lack the basic necessities.

The priorities of the decade of democracy

48. The restoration of democracy in 1985 marked the beginning of a process in which the Government has been giving priority to social policies designed to correct the discrimination against children. Children have been gaining more space on the public agenda by means of various actions and programmes in the public and private sectors supported by international financial assistance.

49. The Governments which successively held office in the decade of democracy took up the problems of children and recognized that children are citizens capable of exercising rights and responsibilities, and they allocated resources for programmes to achieve the objectives of the social improvement of the situation of children.

50. The financial support of bodies such as the United Nations Children's Fund (UNICEF) constitutes a major driving force in the programmes which the Uruguayan State is trying to develop and consolidate with a view to securing the exercise of all the rights set out in the Convention.

51. The chapter on international cooperation goes into greater detail in the matters referred to above.4/

Article 1

52. In Uruguayan law a child is any physical person from birth until the age of majority of 21 years. Full legal capacity for civil purposes is acquired at

---

4/ These two paragraphs are taken from the report of the Non-governmental Committee on the Rights of the Child for 1994. See annex 4.

the age of 21 years, subject to the early release or early majority provided for in the Civil Code. Both these legal procedures constitute forms of early termination of parental authority.

53. When they reach the age of 18 children may be released from parental authority. This procedure is subject to a number of formalities, such as the formalization of the release by legal deed and the prior express consent of the minor. The competent judge of the family courts and the Office of the Attorney-General are required by law to authorize the release. Once granted, the release is irrevocable. As a preventive measure against extravagance, the parents may retain half of the usufruct of the property of released children until they reach the age of majority (21 years).

54. Minors and orphans who have reached the age of 18 may apply to the competent family judge for early majority.

55. Article 303 of the Civil Code stipulates that the judge may not approve such applications without having heard the views of the minor's guardian and of the Office of the Attorney-General. Early majority granted by a judge is also irrevocable.

56. Without prejudice to early release or majority, important limits have been established to protect the minor's economic interests. Article 310 of the Civil Code stipulates prior approval by a court, subject to the penalty of nullification, when a minor seeks to enter into contracts concerning his property. This applies in particular to the sale or mortgaging of real estate, and to gifts or debts in excess of 500 readjustable units, equivalent to about $US 8,300.

57. Finally, it must be pointed out that the lawful marriage of minors produces the same effects as early release or majority with respect to the capacity to manage personal affairs and business.

58. The age of minority for criminal purposes is 18 years. The perpetrator of a crime may not be charged with the crime unless he is at least 18 years old. However, minors who engage in criminal behaviour are subject to the special procedure set out in articles 119 et seq. of the Children's Code followed in the juvenile courts.

Article 2

59. As stated in article 1 of the Constitution, the Republic of Uruguay is the political association of all the inhabitants of its territory with no distinction made between nationals and foreigners, men and women, beliefs, political opinions or economic situations. The principle of equality before the law embodied in article 8 of the Constitution provides that "All persons are equal before the law, no other distinctions being recognized among them save those of talent and virtue."

60. The Civil Code recognizes no distinctions between Uruguayans and foreigners with respect to the acquisition and enjoyment of civil rights. The racial integration of our country, which was formed from its origin by powerful waves of migration, and the peaceful coexistence of its various racial groups constitute one of the most striking features of the national character. This

was born out by an informal survey made in 1993 by the CIFRA company and printed in a national daily newspaper.5/ The survey indicated that most of the persons questioned would agree to their child's marrying an Italian (94 per cent), a Negro (77 per cent), or a Jew (71 per cent).

61. Another survey found that 73 per cent of Uruguayans would send their child to a school in which half of the pupils were from Jewish families.

62. The high level of acceptance of other races and nationalities justifies the assertion that the legislation is consistent with the practice of acceptance and tolerance posited by the principle of equality.

Article 3

63. All the authorities concerned with children in Uruguay take as their legal frame of reference the current Children's Code adopted in 1934. This Code states that the best interests of the child must guide all the practical measures and legal procedures affecting children. Although it is true that this legal text was a model for Latin America at the time of its adoption, it must be recognized that it has been overtaken by the modern developments in international human rights law.

64. Accordingly, and as a direct result of the adoption of the Convention on the Rights of the Child, the Executive, echoing the opinion of extensive non-governmental circles in Uruguayan society, decided in 1990 to create a commission to revise the legislation concerning the country's minors.

65. The primary aim of this commission was to bring the internal legislation into line with international developments concerning the rights of the child. The involvement in the commission of official agencies having responsibilities for children's affairs and university circles and associations of legal professionals created a forum for discussion and analysis which spent almost three years drafting the new Children's Code. With this initiative the Uruguayan State inaugurated a new era in the drafting of legislation with the direct involvement of non-governmental organizations in the debate to allow them to make their views known and enhance the proposed legislation.

66. At last, on 2 March 1994, the draft Children's Code prepared by this commission was endorsed by the Executive and submitted to the Parliament. The Legislature has still not approved the draft text and it is creating a new body to deal with the amendments and additions regarded as necessary.

67. The draft Code is based on the provisions of article 3 of the Convention concerning the comprehensive protection of children from conception to the age of majority and it regards children as active subjects of the rights of the child, eliminating any discrimination against children born out of wedlock and extending the obligation to care for the child to common-law spouses, uncles and aunts and step-parents, as well as introducing other new measures for similar purposes.

5/ El Pais, 26 September 1993.

68. It is particularly worth emphasizing that article 9 of the draft Code stipulates the joint responsibility of parents, family, community, society and the State in the protection and realization of the rights of the child.6/

Article 4

69. The full realization of economic, social and cultural rights is a permanent objective of the Uruguayan State. The economic and social indicators of the past decade show that significant progress has been made with respect to children. In a period of eight years the proportion of households below the poverty line in Montevideo fell from 20 per cent in 1984 to 9.5 per cent in 1989 and 6 per cent in 1992. In the same period, the number of households with unsatisfied basic needs fell by the significant amount of 50 per cent both in Montevideo and in the urban interior.

70. The figures show a sharp drop in the deficit in the drinking water supply in the urban interior (from 14.3 to 1.3 per cent), in the number of people living at the subsistence level (6.6 to 0.5 per cent) and in the overcrowding factor in accommodation. Despite these achievements, 20 per cent of children aged 14 and under in Montevideo and 27 per cent in the interior live in needy households, even though universal cover has been achieved for primary education.

71. The first UNICEF regular cooperation programme with Uruguay, carried out in the five-year period 1992-1996, coordinates methods of social intervention with the development of economic and social policies designed to break the vicious circle of poverty by guaranteeing full exercise of the rights of the child with respect to health, nutrition, primary education, food supplements, etc.

72. The Uruguayan State hopes that the mid-term review provided for in this technical cooperation programme will result in the refunding of the project until the targets of the Plan of Action for children agreed upon in the Declaration of the 1990 World Summit for Children have been fully achieved.

Article 5

73. The care, education and guidance of children is a right and a responsibility of parents. Nevertheless, the social community must collaborate in this undertaking in order to ensure that children can exercise their rights in full.

74. With regard to the guidance and counselling of parents or persons having children in their guardianship or care, the State, through the National Minors' Institute, cooperates with parents to secure the material, intellectual and moral improvement of their children. This specific commitment was assigned to the Institute in the law which established it in 1988. The cooperation takes the form of the provision of services of various kinds and scope. The established day-care centres furnish working parents with considerable State assistance, at no cost to themselves, by coping with the care and attention needs of their children during their absence.

6/ Draft Children's Code. See annex 5.

75. Multidisciplinary professional teams provide various levels of care to help children and protect them against the risks of abuse or material or moral neglect. Health services are provided at the national level on the basis of agreements with public and private institutions. In Montevideo the Health Division provides services in polyclinics and children's outpatient clinics accessible to the population at large. In the interior of the country every departmental chief town [7] has a doctor, a psychologist and a dentist who provide primary health care. Here it is important to mention the work of NGOs which furnish assistance to children and their parents. The location of these services in poor areas and the fact that the health workers live alongside the local people make it possible to build closer links which facilitate the attainment of the objectives.

Article 6

76. The right to life is guaranteed by the Constitution. In 1994 the Bioethics Commission of the Chamber of Deputies examined and approved a bill which would legalize voluntary abortion by amending the existing legislation which made this form of interruption of pregnancy a crime.

77. This legislative move is designed to ensure the participation of the State health services in order to guarantee better standards of medical care and respect for any conscientious objection on the part of the attending doctor.

78. There has been a widespread national debate on the desirability of this proposal. The debate will probably continue over the coming months until the rejection or adoption of the bill by the full Legislature. With regard to the guarantees of the survival and development of the child, it is worth drawing attention to a number of specific measures designed to improve the level of fulfilment of this commitment.

79. The Public Health Service of the Ministry of Public Health offers comprehensive free treatment for children aged under four infected with the AIDS virus. *In utero* transmission accounts for 3.9 per cent of all the cases recorded in Uruguay (1,200 HIV-positive carriers and 200 cases of AIDS).

80. In 1994 children of school age were revaccinated against measles. In addition, all children aged four and under received the compulsory free vaccination against meningitis. Public investment in this sector in 1994 amounted to about $US 100 million.

81. There are also many programmes at the national and departmental level which seek to provide adequate cover where nutrition is concerned. The State has tried to make good the food deficits of children in poor areas by means of the following programmes:

> Collective food assistance service operated through public canteens. There are nine canteens in Montevideo and 33 in the interior of the country;

---

[7] The biggest towns in the interior.

Assistance programme of public and private institutions based on the provision of dried food. This programme supports 325 centres with 26,000 beneficiaries;

Food supplements provided in two subprogrammes coordinated by the Ministry of Public Health (maternal and child services for 12,462 pregnant women and 74,421 children);

Child and family assistance centres; there are 61 centres in Montevideo and the interior, providing services to 3,180 children;

Nutrition education and supplementary diet programmes of the Ministry of Public Health operating at the primary health care level for pregnant women and for children up to the age of four;

Canteen services in public schools. The number of beneficiaries totals 155,957 for the whole country;

National Minors' Institute, which provides assistance to 2,766 recipients, including 1,032 boarders and 859 part-time boarders;

Programmes of the Montevideo Municipal Council: donation of 7,650 litres of milk a day for public schools; donation of 3,600 litres of milk a day for public canteens; and subsidized sale of milk to municipal shops in amounts totalling 14,490 litres a day;

Provision of fresh food to day-care centres under a UNICEF agreement and to local public canteens for poorer people.

Article 7

Right of the child to registration immediately after birth

82. In accordance with the internal legislation contained in the Civil Code, with the amendments introduced by Decree Law No. 1,430 of 11 February 1879, declarations of verified births in the territory of the Republic must be made to the authorities of the Civil Register within 10 days of the delivery. In rural areas the time-limit for registration is 20 days.

83. The legal obligation to declare a birth rests primarily with the father and then, if he fails or is unable to make the declaration, with the mother, and if both parents fail, with the oldest closest relative of the newborn child, provided that this person resides at the place of birth. If all else fails, the declaration must be made by the owner of the house in which the birth took place if it took place away from the home of the mother. If the child is born in a public institution or building or a building belonging to a corporation, the person responsible for management of the building carries a subsidiary responsibility to declare the birth.

84. Declarations of foundlings (a type of abandonment) must be made by the manager of the building where the child is left. In the case of an abandoned newborn infant, the persons finding the infant are required to report the facts immediately to the police or judicial authorities and to hand over any clothing or other evidence found.

85. Surgeons, gynaecologists, midwives or other persons attending delivery are required to report the births attended orally or in writing to the officials of the Civil Register. Births on the high seas are subject to the provisions of articles 35 and 36, which state:

> "If a birth takes place on board a Uruguayan vessel on the high seas or on a warship wherever located, the persons concerned shall issue a certificate stating the circumstances of the birth signed by the captain and two witnesses on board the vessel.
>
> The persons concerned shall deliver this certificate to a justice of the peace in any Uruguayan port at which the vessel puts in. If the vessel puts in to a foreign port, the certificate shall be delivered to the consular agent of the Republic, who shall transmit it through the Ministry of Foreign Affairs to the Office of Civil Status."

The right to a name

86. The legislation on civil status guarantees that every child shall have a name.

87. The birth records kept by the officials of the Civil Register must specify:

> The time, day, month, year and place of the birth;
>
> The sex of the baby;
>
> The name given or to be given to the baby;
>
> The forenames, surnames, occupation, nationality and residence of the father, mother and grandparents.

88. In the case of legitimate children, i.e. children born of a father and mother joined in civil matrimony, the record shows the surname of the father followed by the surname of the mother.

89. In the case of natural children, i.e. children born of parents who at the time of conception were not joined in matrimony, the unmarried father or mother must expressly or implicitly recognize the child. In this case, a natural child will have the surname of the father or mother who acknowledges him, or of both parents if both acknowledge him. In this latter case, the subsequent marriage of the parents of an illegitimate child makes him legitimate. Article 229 of the Civil Code states:

> "On presentation of the marriage certificate and the certificate acknowledging the natural child, the civil status official shall record the facts in the form established for legitimate children. Once this has been done, any pre-existing certificates or other documents shall become null and void and their presentation shall be prohibited."

90. In addition to express acknowledgement, there is also the possibility of tacit acknowledgement of civil status. This results from the verification by a competent judge of the notorious possession of the status of natural child.

91. The annexes to this report describe the functioning of these arrangements in our court practice.[8]

The right to a nationality

92. In Uruguayan law citizenship may be either natural or legal. Natural citizens are all persons born in any part of the national territory and the children of a Uruguayan father or mother whatever their place of birth who enter the country and are recorded in the Civil Register.

93. Legal citizens are foreign men and women, with or without a family established in Uruguay, who meet the requirements of length of residence set out in the Constitution.

94. Nationality cannot be alienated even by naturalization in another country, and it is sufficient for recovery of the exercise of all the rights of citizenship to return to Uruguay and be entered in the Civil Register.

Article 8

95. The internal legislation guarantees all the rights protected by article 8 of the Constitution. As already stated, nationality cannot be alienated even by the adoption of another nationality.

96. A person's civil status cannot be the subject of any private transactions, being a matter of public order. Changes of civil status may be made only by means of a safe ruling by a competent judge and provided that the rules of due legal process have been observed. For an example of the restoration of identity, please refer to the case described in the annexes to this report,[9] which deals with the recovery of identity by a minor who had been deprived of it owing to the peculiar political conditions prevailing in the country in 1972.

Article 9

Paragraph 1

97. Article 41 of the preambular part of the Constitution states that the care and education of children to enable them to achieve their full intellectual and social capacity is a duty and a right of parents.

98. The specific legislation on minors, contained in the Children's Code, repeats this same principle and contains various provisions designed to prevent the separation of children from their family environment.

---

[8] Decision No. 12,245 of the Appeals Court of the second circuit, p. 238, vol. CVI, March-April 1993, in the periodical La justicia uruguaya. See annex 6.

[9] Ruling No. 12,294 of the Court of First Instance of Tacuarembó, p. 411, vol. VI, May-June 1993, in the periodical La justicia uruguaya. See annex 7.

99. Article 51 of the Constitution prohibits the separation of a child aged under three from the family to which he belongs. If the parents are economically unable to support their child, the State will prevent separation by subsidizing the family to which the child belongs.

100. Article 60 states that the parents of a child aged under 12 shall not entrust the child to persons outside the family without a decision awarding guardianship by the governmental body responsible for the interests of children in Uruguay, i.e. the National Minors' Institute (INAME).

101. If the parents are sentenced to imprisonment as the perpetrators of or accomplices in a crime against the person of their child, or if they have received two sentences of imprisonment for crimes against the person of one or more of their children, they lose with full legal effect their parental authority and the custody and maintenance of their children.

102. The new Children's Code, which is under discussion in the Parliament, states in its article 285 that even cases of ill- treatment which do not constitute criminal offences shall be grounds for loss of parental authority.

103. Spouses who are separated or in the process of divorce may at any time conclude agreements concerning the situation of their children (custody, care and maintenance, visiting rights). In the event of a conflict, a family judge makes a ruling, taking into account the best interests of the child.

104. Article 174 of the Civil Code states that in the event of de facto separation or divorce, unless there are serious grounds for not doing so, the custody of children aged under five shall be awarded to the mother. A judge shall rule in the case of older children, having heard the arguments of the parents and the opinion of the Office of the Attorney-General and having interviewed the child.

105. The situation of children with regard to custody, visiting rights and the legal obligation of parents to pay maintenance is determined by a prior and specific decision of the family courts in the event of dissolution of the marriage for any reason.

Paragraph 2

106. The right to be heard is guaranteed throughout the procedure specified in the internal family legislation. The opinions of the parents and the children are heard and taken into account in court decisions in family cases.

Paragraph 3

107. During proceedings in the family courts the spouse who is not living with the child has generous visiting rights at set times and places.

Paragraph 4

108. The existence of habeas corpus as a constitutional recourse means that any inhabitant of the Republic who is a relative by blood or by marriage of the person concerned is entitled to receive information about the reasons for an

arrest, detention or any other official measure affecting personal freedom. In this connection Uruguay's criminal procedure is public and adversarial at all its stages.

109. Article 22 of the Constitution stipulates that all criminal proceedings shall begin with a charge brought by the public prosecutor and that no secret inquiries or investigations may be carried out.

110. Article 15 of the Constitution states that no one may be arrested except in flagrante delicto or by written order of a competent judge based on reasonable grounds.

111. A person charged with a crime may not be held incommunicado by the police. A maximum period of 48 hours of incommunicado detention may be authorized by a criminal court. No one may be imprisoned or suffer any other punishment without due process and legal sentencing, and judges and other public officials are responsible in criminal and civil law for any violation of individual rights.

112. In order to improve the protection of individual rights and provide for swift action if it is necessary to collect information about persons subject to criminal proceedings, the Supreme Court of Justice has introduced a judicial information service for criminal cases and cases involving minors. The statute of this service requires it to keep comprehensive and individual files on persons detained by court order. Each individual file must contain:

The full name of the detainee;

His age;

His civil status;

His address and telephone number;

Particulars and addresses of his closest relatives;

Details of the court which ordered the detention;

The number of the court dossier;

The grounds for the detention;

The place of detention;

The date of detention and release.

113. If an institutional crisis arises, or in serious and unforeseen cases of external attack or internal disturbance, the President of the Republic may decree immediate security measures. The declaration of a state of emergency authorizes the arrest of persons and their transfer from one place to another in the national territory, assuming that they do not manage to leave the country. However, such persons may be detained only in places intended for the detention of offenders.

114. This emergency measure is subject to parliamentary scrutiny 24 hours after its adoption.

115. An overall assessment of the principles which guide these emergency arrangements indicates that the fundamental human rights, as the essential

guarantees of freedom, cannot suffer harm, even in situations of institutional breakdown.

Article 10

116. Article 37 of the Constitution guarantees the free entry of all persons to Uruguayan territory, their residence therein and their departure with their property provided that they obey the laws, except in cases of harm to third parties. Since the restoration of democracy in 1985 there has been no legal provision or administrative measure restricting entry to or departure from the national territory.

117. However, it must be pointed out that the travel of minors from or to the Republic for the purposes of family reunion is subject to the general regulations for issue and control of travel permits.

118. Persons under the age of 21 who wish to obtain a passport while their parents are living abroad must submit to Uruguay's consular agents an authorization endorsed by the Ministry of Foreign Affairs as a preliminary step to obtaining the passport.

119. In cases when it is impossible to obtain authorization from the persons empowered by the law to give it, a competent judge will issue a specific authorization for the trip.

Article 11

120. Uruguay has signed and ratified various international instruments on prevention of the illicit transfer and non-return of children abroad.

121. The following are the main multilateral instruments:

Convention on Protection of Children and Cooperation in respect of Intercountry Adoption adopted at The Hague Conference on Private International Law in 1993 and signed by Uruguay on 1 September 1993; still awaiting ratification;

Inter-American Convention on the International Traffic in Minors sponsored by the Organization of American States in 1994 and signed by Uruguay on 18 March 1994; still awaiting ratification.

122. The following are the bilateral instruments:

Convention on the International Return of Minors and Equality of Procedural Treatment signed with the Republic of Peru and ratified by internal Laws Nos. 15,719, 15,720 and 15,721 of 1989;

Convention on the Reciprocal Protection of Minors signed with the Republic of Chile in 1982 and ratified by Law No. 15,379;

Convention on the International Protection of Minors signed with the Argentine Republic in 1982 and ratified by Law No. 15,218.

Article 12

123. Minors have a right to be heard in proceedings which may modify their civil status. Current internal legislation guarantees that the views of children are heard in matters which directly affect them. In civil proceedings which modify a child's civil status the law stipulates the obligation of the judge hearing the case to interview the child in private.

124. Although these provisions justify the assertion that Uruguay complies fully with article 12 of the Convention, it should be pointed out that there is no legal requirement for a child to appear in all the judicial or administrative proceedings, but only when the law makes such appearance mandatory. In order to fill this gap in the law, the new Children's Code (see paras. 64-67 above) provides for the right of a child "to appear in person and at any time before the authority, to be heard and to receive appropriate legal assistance for counselling or defence".

125. Minors who engage in criminal behaviour are subject to a special procedure set out in article 119 of the Children's Code and corresponding article 346 of the Civil Code which state that, in order to establish the facts and the family and personal background of the child, the judge shall always interview the child and his parents or guardians, and visit any places and order any inquiries, reports or examinations that he sees fit; such matters must be mentioned in the decision, which must be accompanied by a full explanation of the grounds.

126. In all such cases minors are examined by a psychiatrist or other qualified doctor who reports on their physical and mental state.

Article 13

127. The right of freedom of opinion and expression is guaranteed in general terms for all the inhabitants of Uruguay. The Constitution states:

> "In all matters the right to express oneself orally, in private written communications or in the press or by any other means of expression shall be free of any restriction and not subject to prior censorship, but the author and when appropriate the printer or publisher shall be responsible, in accordance with the law, for any abuses which they commit."

128. Out of a concern to protect minors, the existing legislation limits their access to publications or performances which may damage their physical or psychological integrity. In addition, administrative regulations have recently been adopted which specify maximum opening hours for places of entertainment offering video games and prohibit minors from entering such places at night time.

129. Without prejudice to these provisions, the Uruguayan State believes that a child's right to freedom of expression and the respect which adults must pay to that right are enhanced if the child can express himself in the primary social group, the family.

130. In 1993 a non-governmental organization, Defence for Children International - Uruguay Section, with financial and infrastructural support from a number of State institutions conducted a survey of 409 children and

adolescents in the urban area of Montevideo. The main purpose of the survey was to determine, from the perspective of the children and adolescents, the content of the notion of "family". The survey incorporated the following variables: age, sex, level of education, nature of study institution, social origin and family composition.

131. With regard in particular to the parents' readiness to talk with and listen to their children, it is satisfactory to report that 96.6 per cent of those interviewed (387 children and adolescents) replied that their parents showed that readiness. In complete nuclear families (213) 60 per cent replied that their fathers and mothers responded equally to their need for attention. In 58 single-parent families (divorced, separated, etc.) it was usually the mother figure who was most ready to talk with the children.

132. With regard to discussion of ways of resolving conflicts in the family, 57.21 per cent (234) answered that discussion was the usual means of solving problems involving threats, reprimands, punishment, beatings or silences.

133. Lastly, the report states that 92 per cent of the persons interviewed asserted that the rights which they have identified as the most important ones are exercised in their family. With regard to the right of freedom of expression, 75 per cent answered that their parents discussed with them such matters as moving house, allocation of domestic tasks, television programmes or use of money. Questioned as to whether their parents respected their personal decisions about dress, leisure activities, free time, studies and friends, 85 per cent of the children and adolescents answered in the affirmative. The optional answer that "no notice is ever taken of my opinion" was recorded in only 2 per cent of cases.

134. We believe that this information collected by a non-governmental organization constitutes a very clear example of the exercise of the right of free expression by young people and children in Uruguay. The fact that the conceptualization of the child as a subject of rights has been recognized in the family environment constitutes a step towards full acceptance of these rights in all areas of social activity.

Articles 14 and 30

135. The freedom of religion is embodied in the Constitution of Uruguay. Since its incorporation in the text of the Carta Magna of 1918 it has remained unchanged throughout the country's constitutional history. The principle stated in article 5 recognizes the freedom of religious sects. The Uruguayan State does not support any religion and there is absolute separation of Church and State. Article 68 of the Constitution guarantees the freedom of education and the right of parents and guardians to choose whatever teachers and institutions they may wish for the education of their children or wards.

136. Where public education is concerned, the reform carried out by José Pedro Varela in 1876, which has remained unchanged down to our times, was founded on the three basic principles that education should be obligatory, free and non-religious. The non-religious nature of education has been conceived as the anti-dogmatic and critical capacity of the teacher, in addition to teaching children to read and write and helping them to learn other subjects, to produce complete men and women capable of thinking and making choices for themselves.

137. Private and religious educational institutions exist side by side with the public schools. Parents are absolutely free to choose one or other type of school, according to their religious beliefs. Montevideo has 247 private schools and a large number of them teach religious beliefs. There are, for example, Catholic schools, a Jewish school, Evangelical Baptist schools, and an Armenian school.

Article 15

138. Article 38 of the Constitution guarantees the right of peaceful and unarmed assembly. The exercise of this right may not be denied by any authority of the Republic except in accordance with the law and only in so far as such exercise may prejudice public health, safety or order.

139. The draft Children's Code provides the right of meeting and association for children and adolescents.

Article 16

140. The section of the Constitution on rights, duties and guarantees accords to all the inhabitants of the Republic the right to protection in the enjoyment of life, honour, freedom, security, work and property.

141. Article 28 states:

> "The papers of private individuals and their correspondence, whether by letter or telegraph or by some other means, shall be inviolable and may never be searched, examined or intercepted except in accordance with laws enacted for reasons of the public interest."

142. Violation of this right is established as a crime in article 296 of the Criminal Code, which states:

> "Any person who, with the intention of learning of its content, opens a letter or listens to a telephone conversation not intended for him commits the crime of violation of correspondence. This crime shall be punished by a fine. Any person who opens, intercepts, destroys or conceals correspondence, parcels or other items sent through the post with the intention of taking possession of their contents or interrupting their normal carriage shall be sentenced to one to four years' imprisonment. The commission of this crime in either of its forms by a public employee of the services concerned shall constitute an aggravating circumstance."

143. In order to protect the lives of children, article 129 of the Children's Code prohibits the reporting of crimes committed by children under the age of 18 in the news media. This article states:

> "The reporting or graphic depiction of crimes committed by children under the age of 18 is absolutely prohibited. Public employees who pass information to the press in contravention of the provisions of the preceding paragraph shall be liable to a fine equivalent to two days' salary for the first offence and to one month's salary for each successive offence. A third offence shall entail dismissal. News media which violate the provisions of the first paragraph shall be liable to a fine

> of 20 to 200 pesos for each offence. The fines shall be imposed by justices of the peace, in accordance with the misdemeanour procedure, and the amount shall be deducted by the Secretary of the Children's Council 10/ or by an official designated by him. Decisions of justices of the peace may be appealed before a reformatory judge, 11/ whose ruling shall be final. The guilty person shall pay all the costs of the case. The amount of the fines shall be credited to the Council's account."

144. Lastly, article 3 of Law No. 16,099 of 4 December 1990, known as the Press Law, states that all the inhabitants of Uruguay possess the rights of freedom of opinion and expression. In its article 7 it confers the right to bring legal proceedings in exercise of the right of reply on all "physical or juridical persons in public or private law...".

145. The procedural rules governing court appearances require that minors under the age of 21 shall appear through their legal representatives or guardians or through other persons exercising guardianship over them.

Article 17

146. The public radio and television services are considering broadcasting programmes designed for the age groups with which the Convention on the Rights of the Child is concerned. Children's television programmes broadcast during the daytime use permanent display boards reproducing the articles of the Convention. There is also the State-run Institute of the Book, whose purpose is to encourage reading by adults and children.

147. This Institute's publications enjoy tax exemptions granted by the State which facilitate access to culture by the poorer population groups.

148. In addition, organizations for the protection of human rights have produced at least two publications for children as part of the Campaign for the Rights of the Child promoted jointly by State agencies and non-governmental and academic bodies.

149. The book entitled "Now That We Have Rights", which was funded by the Young People's Christian Association of Sweden and published in collaboration with the Municipal Council of Montevideo, constitutes a valuable contribution to the publicizing of the Convention and the incorporation of the rights of the child in the processes of education through play.

Article 18

150. Article 116 of Uruguay's Criminal Code, which dates from 1878 and has undergone several amendments, states that merely by entering into marriage the spouses incur the common obligation to maintain and bring up their children and

---

10/ The Children's Council was replaced by the National Minors' Institute.

11/ The reformatory judges were replaced by juvenile judges.

to provide them with education and vocational training in keeping with their status and circumstances. Natural fathers and mothers have the same legal obligation (art. 277).

151. The obligation to maintain a child includes not only accommodation and food but also clothing, footwear, medicines and payments to doctors and other health workers in the event of illness. It also includes education when the child is under the age of majority. Such maintenance must be provided at the provider's expense and meet the needs of the recipient.

152. In the event of a conflict between persons having legal obligations in this connection, a family judge determines the form and amount of the maintenance which must be provided. This obligation may not be ceded, sold, redeemed or renounced.

153. In the case of minors whose parents have lost parental authority through misconduct or abandonment, a competent judge designates a guardian and sets the amount of maintenance to be paid by the parents and other persons having a legal obligation of maintenance.

154. In the case of unprotected children or children whose parents are unknown, the National Minors' Institute, as the governmental agency responsible for protection of children, initiates proceedings to place such children in foster families. Such families have a legal obligation to satisfy the basic needs of a child's physical and mental development.

155. Deaf-mute and insane children or children with a permanent natural disability are equally entitled to care, and their carers have the same obligations of maintenance.

156. As already stated under article 5, the Uruguayan State has encouraged the establishment of day-care centres where working parents can leave their children. The relevant ministries, autonomous organizations and other public services have concluded agreements with private institutions to provide day care for the children of their employees. There are, for example, the day-care centres of the State Insurance Bank, the National Fuel, Alcohol and Cement Administration, the Ministry of Foreign Affairs, and the Postal Administration.

157. The network of day-care centres of the CAIF Plan (integrated family day-care centres) has been extended to meet the needs of the poorer population groups; these centres have the technical and financial support of UNICEF.

158. There are currently more than 50 such centres located throughout the country.

159. Lastly, the programme of day-care centres and children's day centres run by the National Minors' Institute offers another possibility of free day care for children from poorer families.

160. In addition to these arrangements there is the programme of preventive social action which the National Minors' Institute has been running since 1986.

161. The "Children's Clubs" and the pilot programme for street children are located in areas with a high density of households with unsatisfied basic needs.

This initiative is designed to secure the participation of children by transforming the street (their permanent home) into a playing and learning area. The Children's Clubs seek to provide in a single physical space the school, family and recreation environments.12/

Article 19

162. These social policies are designed to cover the various areas in which children may be victims of abuse, neglect and ill-treatment.

Action to prevent violence

163. In order to improve its preventive action the Ministry of Education and Culture created a programme to combat and eliminate the problems of domestic and sexual violence. This initiative was backed up by the implementation of the family violence prevention, assistance and treatment project of the Ministry of the Interior and the establishment of the first professional assistance service for victims of family violence under the Office for Protection of Mothers and the Family.

164. This assistance programme deals with the initial containment of the crisis. It provides room for thought, analysis, support and counselling as the basis for a diagnosis and evaluation of the risk factors and the victim's degree of vulnerability.

165. The initial emergency action provides physical and emotional protection. A summons is then issued against the aggressor, who is given an opportunity to state his views. Once a diagnosis of the situation is to hand, mediation is attempted. Mediation is regarded as the preferred means of resolving family conflicts and precedes any police or court action.

166. The mediation can include treatment and counselling in coordination with the social support agencies, which can deal with the situation in a comprehensive manner. If the mediation fails, the report to the police is accompanied by a professional assessment of the situation and of possible means of treating the victims.

167. In the case of child abuse the State, through the Office for Protection of Mothers and the Family, coordinates action with a non-governmental organization called ANIMA (National Association for Assistance to Abused Children), and these two bodies monitor the home situation.

168. Over a period of six months ANIMA has been involved in 600 cases of abuse. One of the programmes to be implemented in the near future, for which international financial support is expected, is a children's SOS service, with a mobile unit manned by a professional team which will visit homes in response to anonymous reports and facilitate the handling of cases; this is a new form of effective social control of the problem of child abuse.

12/ See annex 8: leaflets published by the National Minors' Institute.

Sanctions

169. Uruguay's Criminal Code recognizes three degrees of the offence of abandonment of minors. Article 329 states that "Anyone who abandons a child under the age of 10 years who was in his guardianship and whom he had an obligation to care for shall be sentenced, if the offence does not constitute a more serious crime, to six months' to five years' imprisonment." The sentence is increased by one sixth to one third in the following circumstances:

(a) When the abandonment causes the death of or serious injury to the abandoned child;

(b) When the abandonment takes place in circumstances which render it difficult for third parties to provide assistance, by reason of the place, time or weather or for any other similar reason;

(c) When legitimate children or acknowledged or declared natural children are abandoned by their parents or by the spouse of one of their parents.

170. The failure to provide assistance is legally established when a person finding, abandoned or lost, a child under the age of 10 or a person incapable of looking after himself by reason of physical or mental illness or old age does not provide assistance and report the matter to the authorities. The penalty is the same as for the crime of abandonment reduced by one third to one half.

171. Most sexual crimes (rape, indecent assault, corruption of morals, etc.) are subject to more severe penalties when committed against minors or by their relatives or guardians. Lastly, as far as the civil law is concerned, the ill-treatment of children is a grounds for loss, suspension or restriction of parental authority.

Article 20

172. Uruguay endorses the principle set out in the Convention and tries to ensure that a child temporarily or permanently deprived of his or her family environment has a wide range of alternatives to committal to a State institution.

173. In the Uruguayan system the commonest alternative is that of "carers". Carers are women aged between 25 and 50, of any civil status, who have undergone social and psychological testing by a multidisciplinary team of professionals recognized as specialists by the National Minors' Institute. A child entrusted to a carer goes to live in a family of adults who take the place of his own family and see to his basic needs in the way of food, education and support. As compensation the carers receive pay and a travel allowance from the State.

Article 21

174. Uruguay's legal system allows two kinds of adoption: simple adoption and full or legal adoption.

175. Simple adoption is effected by a notarized deed accepted by the adoptee or his or her legal representatives, provided that certain conditions of age, moral

suitability and property are met by the adopter. This kind of adoption, which is possible even in the case of persons over the age of 18, creates new legal relations between the adopter and the adoptee, but the adoptee retains his rights in respect of his natural family.

176. Full or legal adoption is the normal procedure in the case of abandoned children, orphans or children whose parents are unknown. Children housed by the National Minors' Institute who have been abandoned for more than three years can also be legally adopted. In all these cases the children must be under the age of 18.

177. In the case of legal adoption the adoptive parent or parents must meet the following conditions:

(a) They must have been married for at least five years, be over the age of 30 and at least 20 years older than the child, and the child must have been in their guardianship and maintained by them for not less than three years;

(b) The adoptive parent may be a widower or widow or divorced, provided that the maintenance of the child began during the marriage and continued after the termination of the legal link of matrimony.

178. Legal adoption is granted by the courts in Montevideo and the other departments.

179. During the proceedings an advisory opinion must be given by the Office of the Attorney-General, and when the executive decision is made, the child is registered and the legal adoption becomes irrevocable unless annulled by a court.

180. The proceedings are conducted in absolute secrecy, and the court may refuse to allow reporting or recording of the proceedings in order to safeguard confidentiality.

181. The requirement that the adoptive parents must have been married for five years has been questioned, and its retention is justified only by the length of the period during which the legal adoption law has been in force.

182. However, the judiciary takes a flexible approach and has allowed legal adoption by unmarried couples who can demonstrate emotional stability and a long period of cohabitation.

183. In decision No. 12,222 of the Court of First Instance of Tacuarembó 13/ legal adoption was granted in the case of a couple who had lived together for 17 years and married only a few months before the decision (p. 148, vol. CVI, March-April 1993).

184. At present Uruguayan legislation does not contain any specific rules on international adoption. However, the draft Children's Code does have a special chapter on the adoption of Uruguayan children by persons living abroad. The current legislation gives preference to the placement of children in adoptive

---

13/ See annex 9.

families living in Uruguay, and recourse is had to the substantive and procedural rules of the international agreements ratified by Uruguay in the case of adoptive parents living outside the country. In such cases capacity, consent and the other requirements for adoption are regulated by the law of the minor's usual place of residence at the time he is taken into guardianship. This latter criterion is also used to establish court jurisdiction. During simple or legal adoption proceedings the child in question may not leave the country without permission of the court.

Article 22

185. Uruguay is a party to the 1951 Convention relating to the Status of Refugees. The only relevant rule of internal law dates back to 1956 but it has nevertheless provided the framework for an open and flexible policy towards persons who have fled their countries for reasons of persecution.

Article 23

186. The different kinds of disability impose constraints on children with respect to their integration and full participation in the family, community and society. Article 46 of the Constitution recognizes the right of the disabled to receive State assistance. Law No. 16,095 of 4 October 1989 establishes a system of comprehensive protection for the disabled based on the principles of prevention, treatment and rehabilitation of persons with permanent physical or mental disabilities.

187. Article 5 accords the disabled exercise of the following rights without any exceptions, distinctions or discrimination by reason of race, colour, sex, language, religion, political or other opinions, national or social origin, wealth or birth, or by reason of any other personal or family circumstance:

> The right to human dignity, whatever the origin, nature or seriousness of the disorder or disability;
>
> The right to a decent life - the most normal and full life possible;
>
> The right of access to means of securing greater independence;
>
> The right to receive medical, psychological and functional treatment, including prosthetic and orthopaedic treatment, as well as medical and social rehabilitation, education, vocational training and retraining and placement in work;
>
> The right to economic security with a decent standard of living;
>
> The right to live in one's family or in a foster home;
>
> The right to protection against any exploitation, control or other discriminatory, abusive or degrading treatment;
>
> The right to qualified legal assistance when such assistance is essential for the protection of the disabled person's physical integrity or property. If he is prosecuted in the courts, the proceedings must take into account his physical or mental condition.

188. Article 6 provides that the State must protect the rights of the disabled to an extent necessary and sufficient for their fullest personal and social advancement and development.

189. It is the responsibility of the Honorary National Commission on the Disabled to draft, study, evaluate and implement national policy plans for the disabled. This Commission consists of representatives of the Ministries of Public Health, Education and Culture, and Labour and Social Security, and of the Governing Board of the National Public Education Administration, the Congress of Local Councils, and the Faculty of Medicine, and a representative of each of the most representative disabled persons' organizations.

The dimension of the problem

190. On the basis of the national household survey carried out in 1991 by the National Statistical Institute, it is estimated that 8 per cent of Uruguayan children aged between three and 17 suffer from some kind of disability.

State action for the disabled

191. The State provides coordinated assistance in:

Action to prevent disability by early identification of disorders;

Medical, psychological and social care;

Comprehensive rehabilitation;

Special social security arrangements;

Vocational and professional training;

Grants or subsidies to facilitate physical and mental activities;

Public transport;

Training of specialists in guidance and rehabilitation work;

Education programmes run for and by the community to help the disabled;

Provision for the disabled in building design and town planning.

Special public education

192. Pursuant to the Law on Comprehensive Protection of the Disabled, the State, through the Ministry of Education and Culture, provides permanent assistance to disabled persons of all ages in educational, sports and leisure, and cultural and social activities, as well as furnishing the necessary scientific, technical or teaching facilities and materials to enable the disabled to develop their mental, artistic, sporting and social capacities to the full.

193. Graduation from special public education schools grew by almost 50 per cent in the period 1975-1991, with the greatest increase in specialized academic subjects. Between 1985 and 1991 the graduation rate fell by more than 50 per cent during the experiment of integrating disabled children with the rest of the school population. At present, special public education reaches 34.5 per cent of all the country's disabled children.

Provision of services

194. In State primary education priority has been given to a special training model for children with special educational needs. The work has focused on three main areas:

Teacher training: courses of specialized training in locomotor and visual disabilities, personality disorders and mental deficiency were extended to two years;

Selection of trained personnel on the basis of competitive examinations and merit;

Establishment of special classes in the rural and urban interior (department of Salto - psychotics; Colonia - mentally disabled; Florida - locomotor disabilities).

Disability prevention programmes

195. The official figures show that traffic accidents are the main cause of death in the 1-34 age group in Uruguay. The present aim is to reduce the numbers of deaths and injuries by means of various prevention programmes dealing with speed controls, education of pedestrians, and testing laboratories to determine levels of alcohol, drugs and other medicaments in the blood of persons involved in traffic accidents.

Social security

196. Under the national social security system the State makes cash payments to the parents, other family members or guardians and to health centres caring for children suffering from a mental or physical disability which prevents them from doing normal work.

197. The degree of a recipient's mental disability is certified by the Ministry of Public Health, with which any child diagnosed as mentally backward must be registered.

Recreation centres for the disabled

198. The country's capital has one of the most fully equipped rehabilitation centres in Latin America. This centre has an indoor swimming pool and associated facilities, gymnasiums, psycho-motor hall, library, kitchen, exhibition and conference hall, games and reading rooms, and a complete infrastructure for receiving disabled persons from the country's interior.

Article 24

199. The Uruguayan State is obliged under the Constitution to legislate on all matters relating to health and public hygiene and to seek to improve the physical, moral and social condition of all the country's inhabitants. Citizens, in turn, have a duty to care for their health and seek assistance when ill.

200. Article 44 of the Constitution stipulates that "The State shall provide free of charge the means of prevention and treatment both to indigents and to persons lacking sufficient means". Current health policy has led to an overall reduction in direct State intervention in all areas and the concentration of State assistance on the poorest population groups.

201. The implementation of 12 priority programmes has successfully demonstrated that prevention and education in matters of health is an essential activity of a democratic State. These programmes cover: accidents, cardiovascular disease, mental health, drug and other addictions, maternal and child health, sexually transmitted diseases, AIDS, cancer and dental health.

Mother and child unit

202. This unit seeks to bridge the present divide between prevention, cure and rehabilitation by promoting a strategy of popular participation in the identification and solution of the main health problems of mothers and children. About 785,000 children from birth up to the age of 14 (27 per cent of the total population) and about 613,000 women aged 15 to 44, 88 per cent of whom live in urban areas, receive priority attention under this programme. Three priority areas of action have been chosen: pregnancies and poorly supervised births; the dental health of children; and eye problems.

Child mortality indicators

203. In 1990 the mortality rate of children aged under one year was 20.4 per thousand, but it fell to 20.1 per thousand in 1993.

204. Since 1987 trials have been conducted for the introduction of a family-doctor system, with the doctors selected and trained by the Ministry of Public Health. The Faculty of Medicine and its specialist schools have carried out practical trials in the community, and this has strengthened social participation in health measures.

205. The whole Uruguayan people has direct and close access to public and private health centres. The official figures show an increase in the rate of immunization of children aged under one between 1985 and the present, an increase achieved by the expanded immunization programme run by the Ministry of Public Health and the work of the Honorary Commission to Combat Tuberculosis.

206. The campaigns to prevent epidemic diseases such as cholera have proved successful. The absence of cases of cholera underlines the effectiveness of the methods adopted.

207. We would refer to the comments made earlier with regard to the diet supplements provided by the State.

208. With regard to access to drinking water, out of the 652,330 private dwellings recorded in the latest population and housing census in 1985, 89.5 per cent in urban areas and 9 per cent in rural areas were connected to the national water supply system. The remaining 2 per cent of dwellings were supplied from wells, standpipes and other non-potable sources.

209. The action by the State in this area gives priority to mothers and children. At the end of 1988 an agreement was signed with several public institutions (Ministry of Education and Culture, Ministry of Transport and Public Works, National Food Institute, National Minors' Institute, Social Security Bank) and with UNICEF with a view to introducing a comprehensive plan for children, women and the family. The country has a very low proportion of home births without appropriate supervision by trained personnel. In 1986 it was 0.95 per cent of all births.

210. The statistics show that 36.1 per cent of pregnant women are monitored by State health centres. Care for the remaining 63.9 per cent is provided in collective or private health centres.

211. The legislation provides for measures to encourage maternity leave and breast-feeding. However, only 48.6 per cent of children are breast-fed up to the age of four months.

Public health expenditure

212. Uruguay has made a big effort with respect to maternal and child services during the past decade. Public expenditure on mothers and children rose from $US 226 million in 1983 to $US 331 million in 1989.

Dental health

213. The most widespread dental problems in Uruguay are caries and periodontal disease. An epidemiological study carried out by the Ministry of Public Health and the National Public Education Administration in 1991-1992 produced an indicator of 4.1 for caries, loss and filling among 12-year-olds in the public schools, placing Uruguay in the middle category in the international standings.

214. The measures introduced to correct this situation include the implementation of the salt fluoridation programme from 1991, the availability of toothpastes containing adequate amounts of fluoride, and an experiment with 140 dental surgeries offering free treatment under the auspices of the Ministry of Public Health.

Article 25

215. Executive Decree No. 258 of 17 June 1992 introduced for the first time in Uruguay a code of medical ethics and a list of the rights of patients. This new text draws on the concepts contained in the codes of the American Hospitals Association, the codes recognised by Spanish hospitals and the recommendations of the Health Commission of the Council of Europe. Patients' rights include the right to be given full information about the diagnosis, treatment and prognosis of their illness.

Article 26

216. Article 41 of the Constitution, which dates back to 1934, states:

> "The care and education of children, so that they may attain their full physical, mental and social capacity, is a duty and a right of parents. Persons who have large families to support are entitled to subsidies if required."

217. Law No. 10,449 of 10 November 1943 introduced for the first time in our legislation the principle of family allowances.

218. Law No. 15,084 of 28 November 1980 sets out the system of general benefits. The family allowance is paid to any employed person in the private sector who performs paid services for third parties and has children in his charge. Public employees enjoy the same benefits, but the corresponding regulations are contained in Law No. 11,490 of 18 September 1950 and its regulatory decrees.

219. The children of a worker protected by unemployment insurance are entitled to the family allowance provided that their status is certified in the manner required by the law (article 5 of Decree No. 227/981).

220. The beneficiary of the State benefit is the child or minor in the recipient's charge up to the age 14 years. The age limit may be extended to 16 years in the following cases:

> When the beneficiary has not been able to complete primary education at age 14 for justified reasons;
>
> When the beneficiary is the child of a dead employee or an employee who is unfit for work or is serving a prison sentence.

The benefit may be extended to age 18 when the beneficiary is taking an education course above the primary level.

221. If the beneficiary suffers from a mental or physical disability which prevents his taking up paid work, he is entitled to receive the family allowance for life.

222. The administrators of these benefits are all the physical or juridical persons who have effective charge of the upbringing and education of the beneficiary minor and they are therefore obliged to use the benefit for the purposes envisaged by the law. This flexible arrangement, which does not require any parental relationship on the part of the administrators of the benefit, covers the situations of minors in the charge of grandparents or other relations, neighbours or friends, as well as of abandoned or orphaned minors housed in public institutions.

223. The Office of Family Allowances, a State body, may initiate an investigation, following any report, into the administration of the money allocated for a minor. If it is found that such money is being used improperly, a report is made to a juvenile court which appoints a new administrator of the minor's allowance. The family allowance includes cash payments and benefits in kind.

224. The legislation specifies the minimum amounts of the family allowance but leaves it to the Executive to determine the actual amounts paid above the legal minimum.

225. At present the family allowance is 42 pesos per child, equivalent to about $US 10 a month.

226. Law No. 13,711 of 29 November 1968 doubled the amount of this benefit for persons suffering from mental or other kinds of disability.

227. The benefits in kind include prenatal visits to a polyclinic, medical care for the child, and hospitalization for childbirth and the immediate postnatal period. One of these benefits which deserves mention is the first holiday centre for beneficiary minors, which is located in an interior department of the country, and the establishment of a thousand scholarships for preparatory, university and professional studies.

228. Another social benefit, paid in addition to the family allowance, is the maternity grant. All pregnant employed women are entitled to this grant, even if the work relationship has been suspended or terminated for any reason. Women workers receive the cash equivalent of their salary or daily wage for a basic period of 12 weeks.

Article 27

229. With regard to the obligations in respect of maintenance of children we refer to the comments made under article 9.

230. In addition, and to illustrate the situation better, we refer to decision No. 12,475 of the Criminal and Juvenile Court of the department of Maldonado, which found a father guilty of "failing to fulfil the duties of economic assistance inherent in parental authority by giving up his job for fraudulent reasons in order to evade the legal requirement of maintenance."[14]

Article 28

231. For more than a century a set of solid values has underpinned the education system in Uruguay. The democratization of access to education, with the corresponding high rate of schooling among all sectors of the nation, the non-religious nature of the education system which fosters an anti-dogmatic and critical attitude in students, and the freedom and independence of education are the main constitutional foundations of Uruguay's system. The Constitution in force since 1967 recognizes education as one of the priority human rights and it makes this recognition manifest by proclaiming the freedom of education, including the right to teach, the right to learn and the right to establish and operate teaching institutions. The compulsory and free status of primary, secondary, agrarian, technical and higher education are the pillars on which the country's whole education system rests.

232. State primary education is free and compulsory. The compulsory module includes six years of basic and three years of secondary education. Seventy-four per cent of children in the school system attend public schools, with the remainder opting for private education. The official figures show that 98.9 per cent of children aged 11 have completed the last year of primary school. According to UNESCO data, in 1986 Uruguay had a school-attendance rate of 92 per cent, occupying fifth place in South America.

---

[14] See annex 10.

233. Secondary schools are also free and are attended by young people from higher, middle and lower social classes. Graduation from secondary schools has increased steadily since the restoration of democracy. At present 90 per cent of all children aged 13 to 15 are attending the basic single cycle of secondary education, so that the cover is gradually approaching 100 per cent. The graduation rate is stationary since almost total cover has been achieved and the country's demographic growth is virtually nil.

234. University education is also free. Up to 1986 higher education was an absolute State monopoly. That year saw the authorization of Uruguay's first private university, the Catholic University of Uruguay.

235. The university services provide suitable information and guidance about the various course options.

236. According to the 1985 census, 4.3 per cent of the population was illiterate. This is a phenomenon of the older population and is tending to disappear from the younger generations. More detailed studies show that most of the people in this group are functionally illiterate (people who have lost the ability to read and write through disuse or poor learning in the first place).

237. The policy of providing educational incentives helps the poorer population groups by means of programmes such as the one run by the Municipal Council of Montevideo:

(a) Free collective transport for school children;

(b) Free transport for secondary pupils in States schools;

238. The actions taken by the Executive include:

(a) Agreements with the Ministry of Transport and Public Works on school repairs;

(b) Increase of 25 per cent in the salaries of teachers working in schools in deprived areas;

(c) Provision of tax funds to improve the meals services in schools.

Article 29

239. Since 1985 formal education in Uruguay has included a human rights component. In primary schools, as is clear from the document "Survey requested by the Organization of American States on the situation of civic education in Uruguay",15/ the teaching is designed to develop the principles of solidarity, collective participation and respect for the rights of others.

240. Secondary schools deal with these principles in greater detail under the subject "Social and civic education", which has a 12-hour module on the teaching of human rights.

15/ See annex 11: Primary and secondary civic education programmes.

Article 30

241. Uruguay has a homogeneous social composition and no ethnic or linguistic minorities. The racial groups are fully integrated with the rest of the population and there are no inter-racial conflicts.

242. About 6 per cent of the population, a total of 160,000 people, belong to Uruguay's black community. Fifty-one per cent of this group are women.

Article 31

243. Among the leisure activities supported by the State, three recent initiatives deserve mention. The first youth symphony orchestra was created by Decree No. 311/92 of 6 July 1992. A fundamental purpose of this orchestra is to encourage membership by young people from all over the country, supporting their studies and providing opportunities for public performances. Guidance and encouragement is also provided for sports activities for young people as a means of preventing drug use. This policy is backed up by mechanisms for providing funds for cultural activities, such as the sale of State land and use of the proceeds to build leisure and recreation facilities.

Article 32

Child labour

244. The chapter of the Children's Code on child labour consists of 30 articles regulating various aspects of this issue.

245. Work by children aged under 14 in public or private industrial establishments is prohibited throughout the country. The minimum age for farm work is 12 years, providing that work is not done during the school term.

246. Children aged under 14 but over 12 may work in small industrial units alongside members of their families, subject to the consent of their parents or guardians, provided that the work is monitored by a public authority and the children have completed their primary schooling.

247. If it is essential for children to work in order to support themselves or their parents or siblings, the public authority may authorize work by children aged under 14 but over 12, subject to certification that they have completed the elementary course of primary education.

248. Persons under the age of 18 are prohibited from performing hazardous work which may affect their life, health or morals, work which is excessively tiring or work which is beyond their strength. Even light work by persons under 21 is absolutely prohibited in activities which may endanger their health. According to articles 227 and 228 of the Children's Code, any young person under the age of 18 must be in possession of a medical certificate of his physical capacity before he is recruited to a job. Such persons undergo an annual medical examination to determine whether the work is beyond their physical capacity. If it is, they must be provided with more suitable work.

249. The working day of persons under 18 may not exceed six hours, or 36 hours a week, and they must have a two-hour break at midday and a rest day after every six days worked.

250. Employers may be fined for infringement of these special regulations, and if the offence is repeated the owner or person in charge of the establishment may be sentenced to prison.

251. Representatives of a minor who infringe these regulations by allowing the minor to perform prohibited work are liable to fines and possibly terms of imprisonment, account being taken of any civil implications for the suspension, restriction or loss of parental authority or guardianship.

252. The owners or heads of establishments employing minors must fulfil the following administrative responsibilities, subject to fines or imprisonment in the event of violation:

(a) Maintain the hygiene and safety of work places;

(b) Maintain morals and good habits;

(c) Display prominently the legislation on child labour;

(d) Provide free of charge a work booklet including the full name of the minor, his date and place of birth, address, consent of his parents or guardians, medical certificate of fitness for the work, date of recruitment and certificate of primary education in the case of children under the age of 14;

(e) Record all this information in a register kept in the industrial or commercial establishment;

(f) Submit this register every three months to the National Minors' Institute.

253. According to a household survey carried out by the National Statistical Institute, 8.6 per cent of the active male population in Montevideo is aged between 14 and 19 years. The proportion of working women in this age group is 7.1 per cent. In the mainly rural interior areas the figures are 7.6 per cent for men and 9.1 per cent for women.

254. It should be pointed out that according to this same survey children under the age of 14, who are prohibited from working, make up 23.4 per cent of the country's total population.

255. Notwithstanding the legal situation, the Uruguayan State acknowledges that about 4,000 minors work in the formal and informal production sectors. The most serious problem is with piece-work in the home, where there are no registers and the regulations are not observed. Following a case of poisoning of a child aged under 14, the Ministry of Labour and Social Security, the National Minors' Institute and the Footwear Industry Association initiated a study on the working conditions of minors in industry. Companies were ordered to bring their industrial installations into line with the regulations. However, it must be

acknowledged that the increase in the number of young people in the illegal labour market is due to poverty, which the Government intends to tackle as a priority.

Article 33

256. The legislation on narcotic drugs (Decree Law No. 14,294 of 31 October 1974) stipulates aggravated criminal liability in the case of drug dealing when the drugs are supplied to persons under the age of 21.

257. Persons caught in the act of consuming or carrying psychotropic substances are brought before a criminal court which orders a medical examination by the National Commission Against Drug Addiction. If the examination indicates that the person concerned is a drug addict, the court orders appropriate medical treatment, which can be undergone, depending on the circumstances of the case, on an out-patient basis.

Article 34

258. Uruguay's Civil Code, whose guiding principles had remained unchanged since its adoption in 1868, was recently amended by Law No. 16,603 of 19 October 1994. However, it must be pointed out that, in accordance with a provision of this law itself, its entry into force was postponed for 12 months from its promulgation. At the time of preparation of this report the former Code was still in force, but its provisions will be replaced by the new instrument adopted by the Parliament and promulgated by the Executive.

259. Law No. 8,080 of 27 March 1927, known as the Procurement Law, contains provisions to prevent the prostitution of minors.

260. The minimum sentence is four years' imprisonment when the victim is a child under 14 years of age or the perpetrator is a relative or guardian or a person having charge of the boy or girl.

261. The commission of this kind of crime has effects in civil law, including the possible loss, suspension or limitation of parental authority. Article 285 of the new Civil Code specifies the circumstances in which suspension or limitation of parental authority shall be ordered.

262. Parents can be deprived of parental authority by means of an _ex parte_ application upheld by a competent court in the following cases:

(i) If they are sentenced to imprisonment as the perpetrators of or accomplices in a common crime;

(ii) If they are found guilty on two occasions of substitution or concealment, attribution of false filiation or paternity, neglect or abandonment of children, or begging within the meaning of article 348, paragraph 1;

(iii) If they are found guilty of any of the crimes specified in article 274 of the Criminal Code, except for the case provided for in article 284, paragraph 1;

(iv) If they are sentenced to imprisonment on two occasions as the perpetrators of or accomplices in crimes committed in conjunction with their children;

(v) In addition to the cases mentioned in this article and the preceding article, if they incite or encourage in any way the corruption of minors;

(vi) If through depraved or scandalous behaviour, habitual drunkenness, ill-treatment, or neglect of their duties they might jeopardize the health, safety or moral integrity of their children, even when the acts in question do not fall within the scope of the criminal law;

(vii) If there is irrefutable evidence that for a period of a year they have deliberately neglected the duties inherent in their status of parents by not providing their children with proper care and attention.

263. The Office of the Attorney-General and the courts assess the evidence, taking into account the situation of the parents and in particular the interests of the child. Only for duly attested exceptional reasons may the court allow the parents to retain the rights of which they would have been deprived on the grounds set out in subparagraph (vii) above. The provisions contained in the last part of article 284 concerning the rights and obligations of parents and others apply to the cases referred to in this article.

264. Legislation is also being enacted to prevent the entry of under-age immigrants who may be used for prostitution. Article 6 of the former law states that "Any woman or under-age immigrant who is not accompanied by her parents, guardians or other legally authorized persons must inform the immigration service of her destination in the country and remain under supervision until the police authorities report on their investigation of the case."

265. Without prejudice to the measures adopted, it must be acknowledged that white-slave traders continue to use minors of Uruguayan nationality in Italy and Spain.

266. At the internal level, a serious crime concerning the corruption of minors came to light in 1991 at the Nuevo Amanacer hostel, which was operated under an agreement between the National Minors' Institute and the Diocese of Canelones by a religious order called the Brothers of Mercy. Carers, doctors and psychologists discovered irregularities of various kinds affecting children under the age of 12 living in the hostel. Criminal charges were brought, and a parliamentary commission took up the case. Finally, the second-circuit court of Pando imposed a sentence of imprisonment on a monk charged with committing serious sexual abuse of minors in the hostel.16/

267. To enable the Committee to form a judgement about the protection provided by Uruguay's legislation on the prevention and suppression of the promotion of the exploitation or the actual exploitation of children for prostitution,

---

16/ See annex 12: Service, Peace and Justice Report 1992, p. 26.

decision No. 12,330 of the Supreme Court of Justice is annexed to this report.[17] The Supreme Court found that the requirements for conviction of the crime of procurement were satisfied in a case in which a woman threatened to lock up her biological daughter to force her to work with herself as a prostitute. Notwithstanding the defence arguments, the initial sentence was upheld even though there was a clear error in the formulation of the charge by the prosecuting authorities.

Article 35

268. The available information will be found under article 14.

Article 36

269. The available information will be found under article 32.

Article 37

270. The law provides serious penalties for the perpetrators of crimes in which minors are the passive victims of attacks against their life or physical integrity, thus protecting children against ill-treatment and torture.

271. In 1994 several cases were reported and resolved concerning the involvement of State officials in the ill-treatment of minors detained by the police. The Police Authority (which supervises the activities of the public security forces) confirmed the need for disciplinary action in a number of cases, and the courts found the persons concerned guilty of the crime of abuse of authority against the detainees.

272. With regard to cases in which minors are the perpetrators of crimes, it must be reiterated that under Uruguay's internal legislation a person under the age of 18 years cannot be charged with a crime and cannot therefore be sentenced to detention. Minors who commit crimes or misdemeanours are dealt with in accordance with special substantive and procedural legislation by the juvenile courts. One advantage of this system is that measures of protection and supervision, known as "safety measures", can be ordered in the case of juvenile offenders. The safety measures provided for in article 92 of the Criminal Code are of an educational nature and designed for the rehabilitation of the children or adolescents in conflict with the law.

273. A study carried out in 1991 by the National Minors' Institute found that there was some abuse by the juvenile courts in the application of these measures which impose limits on the freedom of movement. In order to correct this situation, the Supreme Court of Justice issued Decree No. 21 of 3 June 1991 requiring judges who order security measures:

To specify the reasons for the decision;

To inform the National Minors' Institute of the type of detention sought and the rehabilitation proposed;

---

[17] See annex 13: Decision No. 12,330, vol. XVII, July-August 1993, p. 91, in the periodical La justicia uruguaya.

To describe the personal characteristics and background of the minor and state whether they indicate the need for detainment in a high-security establishment;

Once the court decision has been handed down, the group of professionals (psychologists, social workers and doctors) of the National Minors' Institute are required by law (art. 119 of the Children's Code) to prepare a diagnostic report on the physical and mental state of the minor, including an outline of the rehabilitation strategy.

274. Until now, minors subject to corrective measures could never be detained in places intended for adults. A bill has been introduced which would allow such detention, subject to certain guarantees.

275. With regard to the protection of minors against illegal or arbitrary detention, the legislation embodies the principle of habeas corpus and the right to legal aid by public defence attorneys designated to work with minors.

Article 38

276. Uruguay does not have compulsory military service. All recruitment to the armed forces is voluntary and the recruitment of persons below 18 years of age is prohibited. Even in wartime only persons over the age of 18 may serve in the reserve forces.

277. During the debates which led to the adoption of the Convention on the Rights of the Child, Uruguay declared its wish that the States parties should seek the gradual elimination of the provisions allowing direct or indirect participation in hostilities by persons below 18 years of age.

278. Uruguay is a party to the 1949 Geneva Conventions and to Protocols I and II Additional to the Geneva Conventions.

279. In fulfilment of the obligations to respect and publicize international humanitarian law, even in peace time, in 1991 Uruguay established a ministerial commission responsible for implementation of these instruments and their incorporation in internal law.

280. Uruguay leads the continent in this respect, and its vision is made manifest in legislation which is fully in accordance with the Convention on the Rights of the Child.

Article 40

281. Uruguay's legislation is consistent with the spirit of article 40 of the Convention. The rules governing the determination of criminal behaviour on the part of minors in Uruguay are set out in the special legislation contained in the Children's Code.

282. As confirmed by a Decree of the Supreme Court of Justice 18/ based on the provisions of the international human rights instruments, such matters are

---

18/ See annex 14.

governed by the principle of legality which states that "only persons below 18 years of age who commit acts defined as crimes or misdemeanours in the criminal law may be regarded as juvenile offenders."

283. The presumption of innocence is embodied in the Constitution and recognizes no differences between minors and adults. In any event, the new version of the Children's Code, which is in an advanced stage of preparation, states as a general principle that no person below 18 years of age may be regarded as involved in an act defined as a crime or misdemeanour in the criminal law until such involvement is proved (art. 146 of the proposed reform).

284. The guarantees of due process and of respect for the periods of education prescribed by law are founded on the provisions of article 16 of the Constitution, which are reflected in articles 119 to 130 of the Children's Code. Article 16 of the Constitution states:

> "In any of the cases envisaged in the preceding article, the judge, under the gravest responsibility, shall take the statement of the person under arrest within 24 hours and shall begin the summary process within 48 hours at the latest. The statement of the accused must be taken in the presence of his defender. The latter shall also have the right to attend all summary hearings."

Article 130 of the Children's Code states:

> "Whenever the police apprehend in flagrante delicto a person apparently under the age of 18 years, such person shall be brought before a juvenile judge, and the official report shall state the facts obtained at the place of the offence, the date of birth of the detainee, and the full names and addresses of his parents. The judge shall question the detainee within 24 hours, and if the detainee is a Uruguayan national the judge shall immediately make an official request for his birth certificate to the Office of Civil Status, which must present the certificate or confirm that none exists within 10 days. When there is any doubt about the age of the detainee which might alter the jurisdiction, the judge shall again make an official request to the Director of the Office, and in this case the requested information must be presented within three days, under warning of submission of a report to the ministry concerned ...."

285. Article 120 of the current Children's Code states:

> "In order to elucidate the facts and the minor's personal or family background, the judge shall always take statements from the minor and his parents or guardians and visit any places which he sees fit and order any necessary hearings, reports and examinations, which shall be referred to in the decision, for which full reasons must be given. The hearings may be attended, in addition to the prosecutor and defender, only by the legal representative of the minor, with his lawyers and the social worker, if any, and any other persons duly authorized by the judge if they so wish, and all these persons may make any oral or written statements which they regard as relevant, but the judge's decision shall be accepted. Applications for reconsideration or appeal, with the grounds stated, shall be the only recourse against the judge's provisional ruling, and such applications may be filed only by the prosecutor or the minor's defender.

> When the judge regards it as appropriate, he shall rule that the relevant testimony shall be taken at the place of the proceedings, which shall continue despite the appeal."

The draft reform of the Children's Code reproduces this procedure with the addition of a number of specific guarantees, such as for example the sanction of the absolute inadmissibility of statements made by minors during the investigation when their defenders are not present. Within a time limit of 48 hours the judge must decide whether the case has merit and rule on provisional arrangements for the minor pending the final decision, which must be taken within a maximum period of 120 days.

286. As stated above, the prosecutor and the minor's defender may propose the presentation of any kind of evidence (documentary, oral, expert, etc.) admissible under ordinary law.

287. The action to be taken with respect to a juvenile offender falls within the exclusive competence of the juvenile courts.

288. When persons who do not speak Spanish appear before a court, they must have the assistance of interpreters or translators, in accordance with the general rule set out in the procedural legislation.

289. Article 129 of the Children's Code absolutely prohibits any reporting or graphic depiction of offences committed by persons below 18 years of age.

290. The juvenile courts may order various educational measures, including:

(a) The return of the minor to his home;

(b) The issue of a formal warning before the court signed by the parents and the minor;

(c) Payment of compensation for the damage caused;

(d) An order of work in the community (schools, hospitals, public places, etc.) under the supervision of social workers, when appropriate;

(e) An order to report to officers of the court at appropriate intervals;

(f) A ban on visiting certain places;

(g) An order giving custody of the minor to third parties;

(h) Detention in an appropriate institution.

As can be seen, detention is the last resort for the rehabilitation of juvenile offenders.

291. With reference to the protection measures which come into play after completion of the legal proceedings in connection with offences committed by minors, the Supreme Court of Justice, as the supreme legal body, issued

Decree No. 7,183 which refers *inter alia* to the obligations stemming from Law No. 16,137 which ratified the Convention on the Rights of the Child. This Decree provides for:

(a) Regular visits by the Court to places of juvenile detention, in accordance with the provisions of article 239, paragraph 2, of the Constitution and article 113 of the Children's Code;

(b) The presence during such visits of the relevant public defenders;

(c) Direct interviews with each of the detainees, and a statement for the record of the state of the establishment, the medical or other specialized services available, and the activities carried out by the inmates;

(d) Submission by the relevant courts to the Supreme Court before March each year of a report containing a detailed account of all the cases heard by them involving juvenile offenders who have been placed in detention or in respect of whom no "safety measures" have been ordered.

UNITED NATIONS

CRC

Convention on the Rights of the Child

Distr.
GENERAL

CRC/C/3/Add.38
7 December 1995

ENGLISH ONLY

COMMITTEE ON THE RIGHTS OF THE CHILD

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 44 OF THE CONVENTION

Initial reports of States parties due in 1992

Addendum

BANGLADESH

[15 November 1995]

CONTENTS

		Paragraphs	Page
I.	BACKGROUND	1 - 3	3
II.	INTRODUCTION	4 - 13	5
	A. Land and people	4 - 6	5
	B. General legal framework	7 - 13	5

GE.96-10655 (E)

CONTENTS (continued)

		Paragraphs	Page
III.	IMPLEMENTATION OF THE CONVENTION	14 - 152	7
A.	General measures of implementation	14 - 41	7
B.	Definition of the child	42 - 46	15
C.	General principles	47 - 62	16
D.	Civil rights and freedoms	63 - 80	19
E.	Family environment and alternative care . .	81 - 105	22
F.	Basic health and welfare	106 - 126	27
G.	Education, leisure and cultural activities	127 - 140	34
H.	Special protection measures	141 - 152	39

Appendix: Children's laws of Bangladesh

List of references consulted*

---

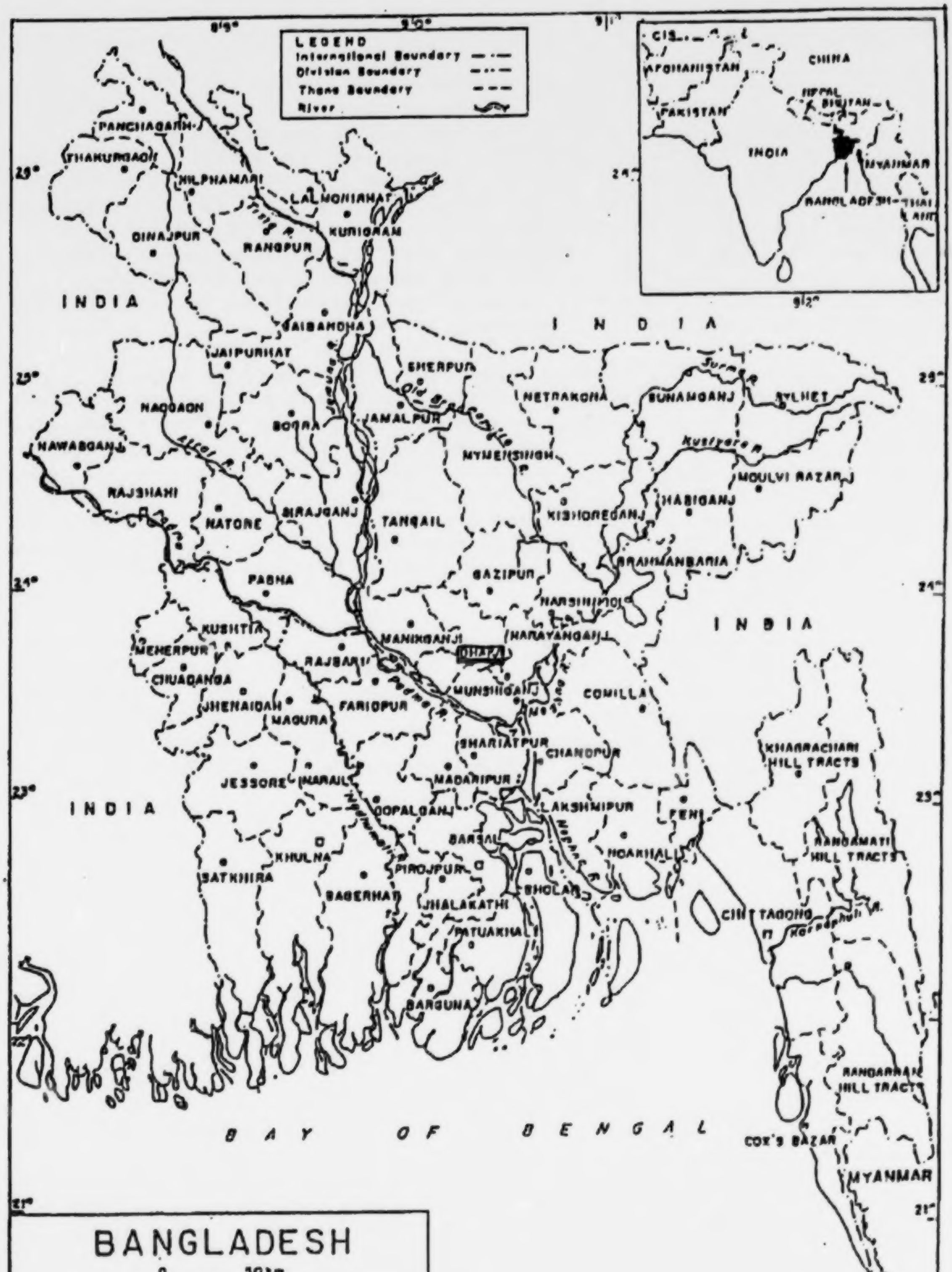
* Available for consultation in the files of the secretariat.

I. BACKGROUND

1. Bangladesh was one of the first countries to ratify and sign the Convention on the Rights of the Child. Bangladesh has accepted all of the provisions of the Convention, but has expressed its reservation to article 21 which deals with the adoption of children. For practical reasons Bangladesh is against intercountry adoption of children. Intercountry adoption of Bangladeshi children is not permitted by law. It was legal before 1982. Immediately after liberation in 1971 some war babies were placed for intercountry adoption. However, in later years widespread abuse of the law resulted in its repeal by the Government in 1982.

2. Bangladesh has also made an observation with regard to article 14 (1) of the Convention which states that the "State Parties shall respect the right of the child to freedom of thought, conscience and religion". While Bangladesh recognizes the right of the child to freedom of thought, conscience and religious practice, the society believes that a child, being immature by definition, is not in a position to consider such complex issues clearly and is consequently unable to make a free and voluntary choice of its own. The child, on the other hand, is likely to act in such cases under the influence, or even pressure, of others, neither of which is conducive to its normal, natural and healthy growth.

3. This is an updated report on the status of the implementation of the Convention on the Rights of the Child in Bangladesh as required under article 44 of the Convention. The report has been prepared by the Ministry of Social Welfare, Government of the People's Republic of Bangladesh, in consultation with concerned agencies working for children in Bangladesh. The report has been prepared following the general guidelines issued by the Committee on the Rights of the Child (CRC/C/5).


LEGEND
International Boundary
Division Boundary
Thana Boundary
River
CIS
AFGHANISTAN
CHINA
NEPAL
BHUTAN
PAKISTAN
INDIA
MYANMAR
BANGLADESH
THAILAND
PANCHAGARH
THAKURGAON
NILPHAMARI
LALMONIRHAT
KURIGRAM
DINAJPUR
RANGPUR
Tista R.
INDIA
GAIBANDHA
JAIPURHAT
SHERPUR
NETRAKONA
SUNAMGANJ
SYLHET
Surma R.
NAOGAON
BOGRA
JAMALPUR
Old Brahmaputra
NAWABGANJ
Atrai R.
MYMENSINGH
Kusiyara R.
MOULVI BAZAR
RAJSHAHI
NATORE
SIRAJGANJ
TANGAIL
KISHOREGANJ
HABIGANJ
BRAHMANBARIA
PABNA
GAZIPUR
NARSINGDI
INDIA
KUSHTIA
MEHERPUR
MANIKGANJ
NARAYANGANJ
DHAKA
RAJBARI
CHUADANGA
MUNSHIGANJ
Padma R.
COMILLA
JHENAIDAH
MAGURA
FARIDPUR
SHARIATPUR
CHANDPUR
KHAGRACHARI HILL TRACTS
JESSORE
NARAIL
MADARIPUR
INDIA
GOPALGANJ
LAKSHMIPUR
FENI
BARISAL
RANGAMATI HILL TRACTS
KHULNA
NOAKHALI
SATKHIRA
PIROJPUR
BAGERHAT
BHOLA
Meghna R.
JHALAKATHI
CHITTAGONG
Karnaphuli R.
PATUAKHALI
BARGUNA
BANDARBAN HILL TRACTS
BAY OF BENGAL
COX'S BAZAR
MYANMAR
BANGLADESH
0
50km
89°
90°
91°
92°
26°
25°
24°
23°
22°
21°

GRAPHOSMAN 93

II. INTRODUCTION

A. Land and people

4. Land. Bangladesh lies in the north-eastern part of South Asia. The country is bounded on the west, north and the north-east by India, on the south-east by Myanmar and on the south by the Bay of Bengal. The area of the country is 143,999 sq. km. Except the hilly regions in the north-east and the south-east and some areas of highlands in the north and north-west, the country consists of low, flat and fertile land. Bangladesh generally enjoys a subtropical monsoon climate. A total of six seasons in a year are recognized; three of them, namely winter, summer and the monsoon, predominate.

5. Population. The population of the country stood at 111.4 million in March 1991. Of these 57.3 million were males and 54.1 million were females, i.e. there were 106 males for every 100 females. The annual growth rate of population (1991) was 2.17 per cent. The density of population as of March 1991 was 778 persons per sq. km. The population is fairly evenly distributed throughout the country. In 1991 the urban population comprised 15.2 per cent and the rural 84.8 per cent of the total. The literacy rate of the country was then 32.4 per cent for the population of age 7 years and above. Life expectancy at birth in 1991 was 57.1 years (male 57.4 and female 56.8). The population was predominantly young with some 16 per cent under 5 years of age and about 44 per cent under 15 years. There were 20.1 million households in the country with an average household size of 5.44. Of these, 15 per cent families were headed by women.

6. Economy. At present the per capital GNP is US$ 220 and the overall annual rate of economic growth of the country is 4 per cent. Bangladesh's GDP at constant factor cost of 1984/85 stood at Tk 469,151 million in 1989/90. In 1992, real GDP grew by 4 per cent as compared with 3.4 per cent in 1991 when the country's economy was adversely affected by a severe cyclone, the Gulf war and political instability in the country. The country is still predominantly rural and agricultural, but this is slowly changing. The agricultural sector's share of GDP declined from 55 per cent in 1970 to 36 per cent in 1991. The share of industry has, on the other hand, increased from only 9 per cent in 1970 to 16 per cent in 1991. The service sector at present is the largest sector of the economy. In 1970 it accounted for 37 per cent of GDP, and this rose to 48 per cent in 1991.

B. General legal framework

7. Administrative set-up. Bangladesh is governed by a parliamentary system of government. The Prime Minister is the chief executive of the country. He/she is selected by the President from the majority party. He/she has a council of ministers to assist him/her in the discharge of his/her duties. For the convenience of administration the country is divided into five administrative divisions, each of which is placed under a divisional commissioner. Each division is further divided into districts. There are 64 districts, each headed by a deputy commissioner. Each zila (district) consists of several thanas and each thana is subdivided into several unions.

There are 460 thanas and 4,451 unions in the country. Each union is the focal point of local administration in the country and the union parishad, a local government body, is headed by an elected chairman.

8. Legislature. The Constitution provides for a unicameral legislature which is called the Jatiya Sangsad (National Parliament). It consists of 300 members directly elected by universal adult franchise. The members of Jatiya Sangsad elect another 30 female members. Thus, the total number of Jatiya Sangsad members is 330. The Jatiya Sangsad is vested with all powers under the Constitution to make laws for the country. Elections to the present Fifth Jatiya Sangsad were held on 27 February 1991.

9. Basic human rights laws. The Constitution of the People's Republic of Bangladesh is the supreme law of the country. All laws in the country take their validity from the Constitution. Part II of the Constitution contains an elaborate list of fundamental principles of State policy. These principles describe the rights relating to the individual's socio-economic and cultural activities. These rights are non-justiciable and serve only as general guidelines for State policy.

10. The fundamental rights listed in Part III of the Constitution are justiciable and the Supreme Court has been entrusted with the power to enforce them. The fundamental rights guaranteed in the Constitution are the following: equality before the law; non-discrimination on grounds of religion, race, caste, sex, place of birth; equality of opportunity for public employment; right of protection against arrest and detention; protection against forced labour; protection in respect of trial and punishment; right to free movement; right to assembly; right to association; right to any profession or occupation; right to practise any religion; right to property; right to protection of home and correspondence.

11. Besides the Constitution, the principal source of the law in the country is through legislation. Legislation consists of laws made by or under the authority of Parliament and may comprise statute laws or "statutory instruments" which are orders, rules and regulations made by a government ministry under the authority of a statute, or by-laws made by local government or other authorities exercising powers conferred upon them by the legislature.

12. Judiciary. At the top of the hierarchy of courts is the Supreme Court of Bangladesh comprising the Appellate Division and the High Court Division. The Appellate Division has both civil and criminal jurisdiction. The High Court Division enjoys a constitutional jurisdiction commonly known as writ jurisdiction. The functions of the two divisions are distinct and separate. Separate appointments are made for each division. The judges of each division sit exclusively in the division to which they are appointed. The Chief Justice of the Supreme Court is appointed to the Appellate Division and is constitutionally known as the Chief Justice of Bangladesh. The hierarchy of civil courts consists of the Court of the District and the Additional District Judge, the Court of the Subordinate Judge and the Court of the Assistant Judge and the other lower courts.

13. The existing legal aid procedures provides for assistance in both civil and criminal proceedings. The Civil Procedure Law of 1908 enables persons who are too poor to pay court fees to initiate suits without such payment. In criminal proceedings undefended accused persons in capital-punishment trials are provided with a defence lawyer by the State.

III. IMPLEMENTATION OF THE CONVENTION

A. General measures of implementation

14. Public commitment to children's welfare and children's rights has a long tradition in Bangladesh. Since early in its statehood Bangladesh has formally focused its attention on children. Article 28 (4) of the country's Constitution adopted in 1972, the Bangladesh Children's Act of 1974 and the Bangladesh Shishua Academy Ordinance of 1976 bear testimony to such early special attention. Currently, the Government is deliberating on a comprehensive national policy on children. In the private sector, the existence for a long time of some notable children's organizations with elaborate child development objectives and programmes testify to the society's concern for children's welfare. Since the ratification of the Convention, the Government of Bangladesh, together with national and international NGOs, has been developing programmes to facilitate the implementation of its provisions.

1. Measures taken to harmonize national law and policy

15. The Government's social policy attaches the highest priority to the survival, protection and development of the children in the country. The Government has taken up a number of activities that have a direct bearing on the welfare of children. The Ministry of Social Welfare (MSW) has been assigned to play the key role of overseeing all welfare activities pertaining to children in the country. To give more importance to the development of children, the Ministry of Women's Affairs has been renamed the Ministry of Women and Children's Affairs. This Ministry is responsible for the National Council for Children Affairs, the National Awards for Children and matters relating to the Bangladesh Shisua Academy, leaving child welfare and coordination of activities of other ministries and organizations in connection with social welfare, UNICEF and other concerned international bodies/foreign agencies dealing with social welfare and administration of the Children's Act of 1974 with the Ministry of Social Welfare. MSW initiates and manages its own programmes as well as monitors programmes initiated by other government departments and NGOs. Important government programmes and actions as well as important programmes initiated by the NGOs are highlighted below.

16. National policy on children. The most important step of the Government towards harmonizing national law and policy with the Convention has been the formulation of the National Policy on Children. The draft policy is awaiting approval of the Government. The principal objectives of the policy are to formally harmonize all child development activities in the country with the provisions of the Convention. It declares six general objectives in the light of the Convention objectives. These are related to: (a) safe birth and survival; (b) proper educational and psychological development; (c) ensuring

family environment for development; (d) providing assistance to children in difficult circumstances; (e) ensuring the best interest of the child; (f) protecting children's legal rights and thus protect them from discrimination.

17. To achieve these objectives, the specific measures elaborated in the policy document are to be taken. The application of these specific measures to government development activities as well as other children-related welfare activities will be monitored by a proposed National Council for Children. The Council will be the highest police body working for children in the country. The Minister in charge of the Ministry of Women and Children's Affairs will be the ex officio Vice-Chairperson of the Council and the Secretary of the Ministry of Women and Children's Affairs will be the member-secretary. The functions of the Council will be as follows:

(a) The Council will act as the highest policy-making body on child welfare and development;

(b) It will take all necessary steps to protect the interests of all children in the country;

(c) It will ensure the effective enforcement of all laws of the country relating to child rights and interests;

(d) It will work for the enactment of new laws and the formulation of appropriate rules if required;

(e) To fully safeguard the rights of children, it will decide on timely amendments, additions and alterations to the existing laws;

(f) It will ensure the implementation and monitoring of the provisions of the Convention on the Rights of the Child.

18. Bangladesh Action Plan for the SAARC Decade of the Girl Child. Acknowledging the generally vulnerable state of children in SAARC (South Asian Association for Regional Cooperation) countries, the SAARC Summit of 1986, held in Bangalore, India, placed child development issues on its agenda. At that meeting the members agreed to include the topic as a regular agenda item at all future summit meetings. As a follow-up to this decision, the SAARC Summit of 1988 in Islamabad requested member States to observe 1990 as the SAARC Year of the Girl Child. In view of the enthusiastic response and to maintain momentum for sustained action required for the development of the girl child, the Male (Maldives) SAARC Summit of 1990 declared 1991-2000 as the SAARC Decade of the Girl Child. A SAARC Decade Regional Programme for Children was subsequently prepared and endorsed at the Colombo Summit in 1991.

19. In pursuance of the above commitment by the Bangladesh Government to achieve the objectives of the SAARC Decade of the Girl Child, the Ministry of Social Welfare, in cooperation with an interministerial committee, has formulated the Action Plan for the Decade of the Girl Child. Members of this committee include representatives from the Ministries of Women's Affairs; Health and Family Welfare; Law, Justice and Parliamentary Affairs; Religious

Affairs; Local Government, Rural Development and Cooperatives and Foreign Affairs. The MSW is the coordinator of the committee. Members also include representatives of NGOs, child rights activists, children's organizations and UNICEF.

20. The Action Plan for the decade is one of the most important programming activities taken up by the Government of Bangladesh in order to improve the rights and privileges of children, especially that of the girl children. By addressing the special needs of the girl child and assessing her problems, the Action Plan seeks to establish programmatic efforts focused on the girl child and to ensure that they are well integrated with other development activities. The Action Plan lays special emphasis on: (a) basic education; (b) sanitation; (c) health and nutrition; (d) legal and social support. The responsibilities of concerned ministries/agencies to implement the Action Plan have been clearly specified in the plan. The efforts of the Government will be harnessed with those of the NGOs to ensure broad-based social participation. The Action Plan is known as samata (equality).

21. National Programme of Action for Achieving Goals for Children. The National Programme of Action (NPA) aimed at achieving the goals for children and development for the 1990s was launched by the Prime Minister on 2 June 1992. The NPA has drawn up specific targets regarding the well-being of children in the areas of: (a) health and nutrition; (b) water and environmental sanitation; (c) education; (d) social welfare, including children in especially difficult circumstances. The process of the preparation of the NPA was initiated by a joint government and UNICEF advisory group (JGUAG) in March 1991. The JGUAG was set up at the Planning Commission long ago with the aim of overseeing and coordinating children's development activities supported by the Government and UNICEF. The committee members included representatives from various government ministries and departments and representatives from UNICEF. The Chairman of the committee is the member for programming, socio-economic infrastructure and the planning commission and the member-secretary is the deputy secretary of the Economic Relations Division of the Ministry of Finance. The name of the NPA is progoti (progress).

22. Bangladesh Shishu Academy (Bangladesh Children's Academy). Established in pursuance of constitutional obligations regarding the children and youth of the country, the Bangladesh Shishu Academy was set up in 1976. This is an autonomous body, now governed by the Ministry of Women and Children's Affairs, has become one of the country's major public organs working for child development and child rights. The main purpose of the Academy is to promote cultural, scientific and recreational activities for children. The objectives of the Academy include the development of patriotic feelings, a sense of discipline and love for the national heritage among children. To achieve these objectives the Academy organizes literary and cultural activities and competitions for children, and runs training facilities for developing children's cultural skills in areas such as dance, music and painting. It also has a publications programme and a foreign tour programme for children. The publications programme supports children's journals and books. Through the Academy's foreign tour programme, children are given an opportunity to present their talent in foreign countries.

23. Recently, the Academy has widened its activities by starting pilot programmes: (a) for imparting preschool education to disadvantaged children and disabled children; (b) for educating parents on proper nutritional and mental growth requirements of children; (c) for informing the masses about the rights of children incorporated in the Convention. Recognizing the usefulness and the importance of the Academy's programmes, the Government has recently allocated an amount of Tk 100 million for the establishment of 44 new branches of the Shishua Academy in all the remaining district headquarters.

24. Review of existing children's laws. The laws for the protection and welfare of children in Bangladesh are not contained in one statute, but are scattered over a multitude of laws and statutes enacted at different periods. There are a number of laws in force in Bangladesh which contain specific provisions dealing with the protection, maintenance and well-being of children. Some of these were enacted during the British rule of the undivided India and later during the Pakistan years. These were found to be consistent with the Bangladesh Constitution and validated to remain in force in Bangladesh. New laws were also enacted after the independence of Bangladesh in 1971.

25. More concerted attempts to review the children's laws of Bangladesh with the aim of identifying their anomalies or inconsistencies with the Convention are on the active agenda of the Government. There is a subcommittee on child legislation within the MSW whose terms of reference are to review the existing child laws and make recommendations for their amendment or for the introduction of new laws. The subcommittee is authorized to seek advice from expert lawyers in the field in the course of its work. The committee has commissioned a number of reviews of existing laws relating to children. These reviews are broad surveys that mainly identified laws concerned with children. The Shishua Academy has published one of these reviews both in Bangla and in English. The MSW has also prepared a review of legislation affecting the girl child. A list of these laws concerning children in Bangladesh has been appended to this report.

26. Bangladesh Shishu Adhikar Forum (BSAF) (Bangladesh Child Rights Forum). The formation of the Bangladesh Shishu Adhikar Forum represents the most important development in the NGO sector towards harmonizing national policy with the Convention. This forum has been organized to coordinate child rights activities of various NGOs working for children in Bangladesh. The forum works as a network of organizations and people in the country. The present membership of BSAF stands at 53. By maintaining links to national and international bodies, this forum aims at upgrading the rights and privileges enjoyed by children, especially the disadvantaged children in the country. The new forum has been conceived in the backdrop of the ratification of the Convention by Bangladesh.

27. The BSAF works through an Executive Board and three working groups: the Legal Group, the Media Group and the Programme Group. The objective of the Media Group is to raise public awareness of children's rights. In fulfilling this objective, the Group has met with editors of national newspapers, produced films and information packs and issued regular newsletters. The Legal Group's objective is to formulate a legal framework for the protection

of children's rights. Its workplan includes: research and workshops on various subjects, legal literacy programmes, lobbying for the adoption of new legislation on children's rights, networking to initiate legal reform movements, organizing non-formal workers, legal counselling and legal aid to disadvantaged children and their families, monitoring violations of children's rights and implementing child laws. The objective of the Programme Group is to increase the access of disadvantaged children to basic services. The full range of the programmes planned at present includes training, research, networking with other organizations and advocacy. The training programmes are to focus upon the policy-makers, supervisors and field workers in child development activities. The research programme is to support primary studies on topics such as child abuse, child labour, etc. as well as making extracts and inventories of existing studies for their wider dissemination. The networking programme will aim at enhanced interaction between NGOs and the setting up of common children's service centres.

28. The BSAF's relationship with the Government is one of partnership. It aims at complementing the Government's efforts and to create a social demand for children's development. With the programmes described above, the BSAF is expected to become one of the focal points in the implementation of the provisions of the Convention in Bangladesh. There are, however, other children's organizations in the country which are not members of the BSAF. These bodies have also taken up, both individually and collectively, programmes for child development and welfare.

2. Allocation of resources and international cooperation

29. Bangladesh is now at the end of its Fourth Five Year Plan. Poverty alleviation, growth with equity, employment, human resource development and women's development received special attention in the Fourth Plan.

30. Fourth Five Year Plan allocations. It is difficult to quantify exactly the amount of national resources that will specifically benefit the children of the country. However, a large proportion of the resources allocated to the areas of education, health, family planning, youth and women's development and social welfare will benefit the children of the country. Table 1 below shows the amount of resources allocated under these headings in the Fourth Five Year Plan. A review of sectoral allocations reveals that about a tenth of the overall allocations are made to these sectors. Herein lies an indication of the difficulties faced by the planners of the country in allocating the scarce national resources to competing sectors. While all sectors demand attention, the Government has to give priority to the more immediately required economic development, employment creation and poverty alleviation programmes.

Table 1. Sectoral allocations during Fourth Five Year Plan (1990-1995)

Sector	Total allocation (taka in crore)	Per cent
Agriculture	18 233	26.45
Industry	8 540	12.39
Energy	9 350	13.56
Transport/comm.	653	15.45
Physical planning	7 455	10.82
Education	3 289	4.77
Health	1 248	1.81
Family planning	1 818	2.64
Socio-economic	612	0.89
Scientific and technological research	76	0.11
Manpower and labour	76	0.11
Public admin.	130	0.19
Block allocation	3 120	4.58
Trade and others	4 294	6.23
Total	68 930	100.00

31. The social infrastructure sector, however, is growing steadily and it is hoped that once the investments in economic development sectors such as agriculture and industry begin to yield results, more resources will be available for the social and human development sectors. It should be noted that the allocations in human development sectors have progressively increased over successive Plan periods.

32. International cooperation. The international cooperation in the field of children in Bangladesh is mainly through the activities of UNICEF, on a bilateral basis. Other United Nations agencies such as United Nations Development Programme, United Nations Organization for Education, Science and Culture, World Health Organization and the International Labour Organization and international NGOs like Care, Caritas, Concern, Oxfam, Radda, Barnen, Save the Children Fund, Enfants du monde and many others also have child development programmes.

33. The process of preparation of the National Programme of Action for achieving the Goals for Children described earlier involved full cooperation between Government and international organizations. The NPA programmes anticipate a high degree of cooperation between Government and its various international development partners in its successful implementation. Areas involving international cooperation include primary education, child health

and nutrition, and development in the field of water and sanitation. The General Education Project on primary education, which costs US$ 310 million, involved the participation of international partners including International Development Association, the Asian Development Bank, UNICEF, UNDP, Swedish International Development Authority, Norwegian Agency for International Development and United Nations Population Fund. Besides, European Economic Communities, Organization of the Petroleum Exporting Countries and Inter-American Development Bank are involved in flood and cyclone rehabilitation projects in the primary education subsector. In the health sector all the major programming activities of the Government have international support. A World Bank-led consortium of donors - Australia, Belgium, Canada, EEC, Germany, Japan, the Netherlands, Norway, Sweden and the United Kingdom - is funding the current Fourth Population and Health Project of Bangladesh. While the main objective of the project is to upgrade health facilities in general, it also has many specific child-targeted projects. Major United Nations organizations like WHO and UNICEF are also significant contributors. The project will cost approximately US$ 605 million, of which the Government will provide 27 per cent. The project accounts for over 70 per cent of the total funds allocated to the health and population sectors in Fourth Five Year Plan. Water and environmental sanitation programmes in Bangladesh have been supported for many years by funds from Danish and Swedish international development agencies. Many of these projects have specific components aimed at improving facilities for rural children.

34. Regional cooperation. Bangladesh has been very active in developing joint programmes on child development with its regional neighbours through the SAARC umbrella. It has reaffirmed its commitment to the objectives and goals of child development and child rights and has pledged to cooperate with other countries of the SAARC region for the survival, protection and development of children. Bangladesh took an active part in the SAARC Ministerial Conference on South Asian Children held from 16 to 18 September 1992 in Colombo at which the Colombo Resolution on Children was approved by member countries.

3. Monitoring implementation of the Convention

35. An official monitoring mechanism for the implementation of the Convention in Bangladesh is being evolved. The proposed National Council for Children will ensure implementation of the provisions of the Convention. Being a national-level committee, the Council will have the full authority to monitor the activities of various government departments as well as the activities of NGOs. To this end, the Ministry of Women and Children's Affairs, as the secretariat of the National Council for Children, plans to establish a Child Rights Monitoring Cell (CRMC). Once the cell comes into operation, it will become the national databank and source of information on all activities directed towards the implementation of the Convention.

36. The process of preparation of the present report provided an opportunity for reviewing the current status of implementation of the provisions of the Convention in Bangladesh. In preparing this report, the MSW organized several interministerial review meetings and workshops. Besides the MSW, the other ministries attending these review meetings included the Ministries of Home; Law, Justice and Parliamentary Affairs; Health and Family Welfare; Education; Women's Affairs; Labour and Manpower; Youth and Sports. Representatives from

the NGO bureau under the Prime Minister's secretariat also attended. Non-governmental attendance at these meetings and workshops included representatives from leading NGOs and international organizations working with children in the country. Input from these deliberations have been extensively incorporated into this report. The BASF has also organized a full-day workshop for NGOs to review the draft report and to provide additional input.

37. The basic research for preparation of this report has also revealed that there is an information gap about the state of children in the country. While there is no dearth of information regarding the goals, policies, objectives and intentions of various governmental, non-governmental and other agencies on children, quantitative information and indicators on many aspects of the existing situation of children is lacking. The research has revealed that valuable primary information is regularly collected by government departments as routine work. Sporadic and anecdotal information is available on issues such as the state of street children, child labour, child prostitution, child abuse and other related aspects. To collect and store relevant information regarding children the necessity for the establishment of a Survey, Research and Information Cell at the Ministry of Social Welfare/Ministry of Women and Children's Affairs is urgently felt.

4. Information and training

38. The dissemination of information regarding the Convention in Bangladesh has been carried out mainly through publications, workshops and Child Rights Week programmes. Government, international agencies and NGOs have actively cooperated in this activity. The publications programme of the Government included printing of half a million copies of the Bangla version of the Convention. Four hundred and twenty thousand of these are in the form of a pocket-size booklet. Copies of this booklet have been distributed among head teachers of all 50,000 primary schools of the country. Copies of the booklet were also sent to imams (religious prayer leaders), development workers, scouts, Chairmen of union parishads (4,451 elected local government councils), mother's clubs, children's organizations, relevant government officials and NGOs throughout the country.

39. On the eve of ratification of the Convention in 1990 the Bangladesh Government organized a three-day National Workshop on Children. The main purpose of the workshop was to make various sections of the people in the country aware of the rights and well-being of the child and inform them about the Convention. The forum provided the first comprehensive interaction among people working in the country in the children's field. At the workshop the participants discussed a wide variety of subjects relating to the situation of children in Bangladesh and how it might be improved. This resulted in a series of recommendations. The workshop also expressed its strong support for the ratification of the Convention. Following the workshop, a full report of the proceedings was published, including the papers presented and the recommendations. Child Rights Week was observed nationwide by joint Government-UNICEF efforts in September-October 1992 inaugurated by the Prime Minister. The BSAF was an active partner in the observance of the Week. The programme included a children's rally and paintings by street children. Programmes on other days of the week included a seminar on child rights and the handing over of a memorandum on the implementation of the provisions of

the Convention to the speaker of the Parliament by representatives of street and working children. The nationwide observance of Child Rights Week has now become an annual event.

40. The Training Academies of the Ministry of Social Welfare have included the Convention in their regular curriculum. All other training institutes and academies of the Government have been requested to include the same in their curricula.

41. Large-scale awareness of the Convention has resulted from numerous publications like the Samata, the Progoti, or the National Plan of Action for Children. The Bangladesh Shishu Academy with its network of district branches is gradually becoming a powerful medium for the dissemination of the Convention provisions throughout the country. Children's organizations of Bangladesh, including BSAF, have included advocacy for the Convention in all their activities. Their members are being made aware of the various provisions of the Convention.

B. Definition of the child

42. As in many other former British colonies, the statutes of Bangladesh include laws and regulations that were enacted long before its independence. These laws were enacted at different times and in response to different situations. The concept of "child" has thus been given varied definitions by different acts and statutes in force in Bangladesh. The Bangladesh Majority Act of 1875 defines a person below the age of 18 years to be a child. The Guardians and Wards Act of 1890 states that if a child is made a ward of court then he/she will remain a ward until 21 years, thus defining him/her as a child up to that age.

43. The legal system in the country also makes a distinction between boys and girls in defining a child. This is especially apparent in the Child Marriage Restraint Act of 1929. In this Act the age of majority, defined in terms of contracting a valid marriage, has been placed at 21 years for boys but 18 years for girls. Under Muslim law a child becomes an adult upon attaining puberty, which varies with gender. An average female child ceases to be a child upon attaining puberty at the age of 12 years and an average male child on reaching 15/16 years of age.

44. The Children (Pledging of Labour) Act of 1933 regards a person below the age of 15 years as being a child. The Employment of Children Act of 1938 prohibits the employment of children of 12 years in regular jobs. It has, however, provided labour by children of 12 years of age by restricting certain jobs for children over 12 years and again certain jobs between 15 and 17 years. The Bengal Vagrancy Act 1943 considers a person below the age of 14 years as a chid.

45. The Factories Act of 1965 defines a child as a person who has not completed 16 years of age. It prohibits employment of children below the age of 14 years in any factory. The Children's Act of 1974 states that a child is a person below the age of 16 years.

46. The wide range in age in the legal definition result from the fact that these laws were framed at different times and were responding to different social situations. The policy makers in the country are aware of the anomaly in the definition of child in the country and have taken measures to examine it.

C. General principles

47. The formal laws of the country attempt to safeguard its citizens against all forms of discrimination through a number of constitutional and legal instruments. Legal protection for each citizen is guaranteed by the Constitution of Bangladesh. Articles 27, 28 and 31 of the Constitution lay down the general principles regarding the protection of children and others from all forms of discrimination.

48. Article 27 of the Constitution provides that protection by declaring that "all citizens are equal before law and are entitled to equal protection of law".

49. Article 28 of the Constitution provides that: (a) the State shall not discriminate against any citizen solely on grounds of religion, race, caste, sex or place of birth, (b) women shall have equal rights with men in all spheres of the State and public life, (c) no citizen shall solely on grounds of religion, race, caste, sex or place of birth be subjected to any disability, liability, restriction or condition with regard to access to any place of public entertainment or resort or admission to any educational institution.

50. Article 31 specifically entitles a citizen to the right to protection by law. It states that "to enjoy protection by the law and to be treated in accordance with the law, and only in accordance with the law, is the inalienable right of every citizen, whatever they may be, and every other person for the time being within Bangladesh, and in particular no action detrimental to the life, liberty, body, reputation or property of any person shall be taken except in accordance with law".

51. The broader religious and cultural traditions of Bangladeshi society do not consciously sanction discrimination in any form. All members of the society are to be treated equally. Social inequality and differential treatment of persons or groups, however, results from a variety of economic, social and cultural factors. The large population and limited resources of the country result in uneven spatial and social development. In the social and cultural sector preference for particular family norms or the preference for particular life styles leads to discrimination against groups or classes. The following paragraphs in this section attempt to elaborate upon these and other related points.

1. Non-discrimination (art. 2)

52. Against girl children. As in many other South Asian countries a boy child is often preferred to a girl child. The laws of Bangladesh do not discriminate on the basis of the sex of the child. The reasons why a girl is less welcome than a boy in Bangladesh are many. There is a misconception that

the potential of the girl child for emerging as a member of the productive labour force and contributing to the economic advancement and social security of the family is limited compared to that of a boy child. Marriage of a female child often entails a considerable financial burden on the parents, and it is often perceived that investments made in the education of the girl child may not benefit her own family but the family of her husband and in-laws.

53. The desire for the boy child results in lesser emphasis on a girl child's rights. The literacy rate of the girl child, in the rural or urban setting, is lower than that of the boy. Seventy per cent of girls enrol in primary schools compared with 81 per cent of boys. Ten per cent of girls in the age group 10-14 attend school. The corresponding figure for boys is 23 per cent. One out of 10 girls goes to secondary school; in the case of boys the figure is one out of four. Most girls receive 20 per cent fewer calories than boys.

54. The Government is aware of the above situation and, as stated earlier, has launched a Decade Action Plan for the Girl Child 1991-2000. The Action Plan puts special emphasis on education, health and nutrition, and legal and social support for the girl child in order to remove the effects of the particular discrimination practised by the society. A quota for entry into government jobs is also proving to be an incentive in the right direction. Side by side with the rise in the literacy rate, general awareness of human rights and the emergence of a free press are leading to the exercise of due rights by women. The process is irreversible.

2. Best interests of the child (art. 3)

55. A review of the provisions contained in the laws relating to children in Bangladesh reveals that the laws are designed to encourage and ensure the best interest of the child. In fact, the various anomalies revealed in the definition of a child in various legislation in the country appear to have been the result of a conscious attempt by legislators to ensure the best interest of the child in different situations.

56. The Children's Act, 1974 and Children's Rules 1976, in spirit and intentions, appear to have been framed to safeguard the child's best interests during all kinds of legal processes. The provisions of the Act and the Rules constitute a comprehensive set of guidelines for maintenance of the best interest of the child. It advises the court to have regard to the character and age of the child and the living circumstances and other related factors in passing any order under the Act. Specifically, any joint trial of adult and child offenders is forbidden by this Act even if the offence is committed together with an adult. The Act provides for separate juvenile courts to be set up if possible and practicable in different locations from the courts where usual proceedings take place. The court is empowered by this Act to send a homeless child or one without any subsistence to an institutional home or to entrust him or her to a relative.

57. Among other pieces of legislation, section 90 of the Penal Code provides, for example, that a consent given by a person under 12 is in the eye of law no consent at all. Similarly, sections 10 and 11 of the Contract Act of 1872 provide that a minor is not competent to enter into any contract. The

Marriage Restraint Act of 1929 makes marrying a child, defined in the case of a male as a person under 18 years of age and in the case of a female as under 16 years, punishable.

58. Furthermore, the principle underlying article 3 of the Convention is best expressed in the Guardian and Wards Act where the Court, in appointing a guardian, must look after the support, health and education of the minor. The Child Marriage Restraint Act of 1929 was enacted keeping in mind the welfare and best interests of the minor. The Children (Pledging of Labour) Act 1933 prohibits the pledging or bonding of the labour of a child below 15 years in the best interest of the child. Most labour laws, i.e. the Employment of Children Act, the Shops and Establishment Act, Factories Act and Mines Act, all have provisions regulating the working hours of child workers, prohibition of certain kinds of work, and day care facilities for small children who cannot be kept away from working mothers.

59. As for the guidance for maintaining the best interest of the child in formal institutions, standards are yet to be established. The judgement of the concerned official is relied upon in such cases. This judgement depends largely on the training, education and experience of the individual. The probation officer responsible for a child offender shall be under the guidance of the juvenile court which has committed the child to the institution or special care (under the Children's Act of 1974). He or she is to visit or receive visits from the child at reasonable intervals. He or she is to see to it that the relative of the child or the person to whose care the child has been committed observes the conditions of bond. The officer is to report to the court as to the behaviour of the child. He or she is to assist and befriend the child and, where necessary, endeavour to find him or her suitable employment.

3. The child's right to be heard (art. 12)

60. Bangladesh represents a traditional society where only a small percentage of the population is urbanized and modernized. A strong patriarchal extended family system dominates the society. In this family environment, the views of elders normally set the mode of behaviour in the family. Children are expected to comply with and follow these rules and mode of behaviour. Children are seen as minors, lacking proper maturity to take any major decision of a practical nature, their views are given little or no importance. The chid is the ward of his/her parents or guardians, who take most decisions for him or her. The choice of type of education, educational institution, place of residence or kind of life style to be followed is usually determined by the parents or guardians.

61. However, in educated urban middle class and upper class families the views of elder children are normally taken into consideration. Their views about the choice of education, career and cultural aspects are accorded increasing importance by these families as the children grow older.

62. In legal proceedings a child's views with respect to the case in question are to be taken into consideration. The Evidence Act of 1872 allows the acceptance of a minor's evidence and opinion. Under the Guardians and Wards Act, the court must take the child's views, especially in relation to his

choice of residence with his choice of guardian, into consideration. Many social workers, however, feel that children's views are given little importance in legal proceedings.

D. Civil rights and freedoms

1. The right to name and nationality (art. 7)

63. Registration of all births is regulated under the Act of 1886. Even though legislation has existed for a long time, most births are still unregistered due to lack of awareness. The urban residents of the country usually record births. But in the rural areas most births remain unregistered due to lack of consciousness and facility. Whenever a record is needed, locally elected officials may certify a person's name, age and nationality. Certificates provided by schools are also widely in use for the school-going population. Recently, the Government has made provision to ensure the registration of all births and deaths through union and thana-level workers. This activity is being monitored by the Ministry of Local Government and the Ministry of Health and Family Welfare.

64. Every child after birth is named as per accepted social norm. The name of the child may or may not include his or her father's family name as the last name, as there is not yet a custom of having a fixed family name in Bangladesh. Illegitimate or out-of-wedlock births are rare in Bangladesh.

65. In Bangladesh a person can acquire citizenship/nationality by birth, by descent, by migration and by naturalization as per citizenship order.

2. The right to identity (art. 8)

66. The usual method of maintaining legal identity in the country is to have a name and an address. Children are identified by their name and their father's name and address. Names are not usually changed. However, one can legally change one's name through a legal affidavit and an accompanying newspaper notification. The urban dwellers in the country usually have two sets of legal addresses, i.e. the permanent and the local address. Local address implies place of present residence/work. The permanent address refers to one's rural, village or the family address. Local address implies the place of present residence/work. Everyone has the right to have a name and an address.

67. Under the Constitution and citizenship rules, no Bangladesh citizen who is or had been domiciled in Bangladesh may be deprived of his citizenship except when he has obtained it through providing false information or if he has expressly renounced it. In the case of minors it has been prescribed that citizenship is to follow that of the father.

3. Freedom of expression (art. 13)

68. The basic rights and liberties of the Constitution apply to all citizens, including children as well as adults. Every citizen is assured of freedom of expression - the liberty to convey information and express thoughts, opinions and feelings in speech, writing or images or by any other means. Furthermore,

every citizen is assured of freedom of information, i.e. the liberty to obtain and receive information and generally to be apprised of the utterances of others. Freedom of expression in writing is specially regulated by the Freedom of the Press Act. Press freedom means a right without prior review to publish writings and the liberty to express in writing one's thoughts and opinions without any restrictions other than those following from general provisions.

69. With urbanization and development the traditional Bangladesh society is undergoing a rapid change. The traditional family where respect for the elders was the norm the children's views did not matter very much. This is, however, changing. The change is occurring differently at different levels of society. The exposure to various electronic and print media in urban as well as in the rural areas is changing families. In some families children and minors now can express their views relatively freely.

70. Children in Bangladesh have no restriction on publishing magazines or journals if they can afford it. Children's groups usually publish such journals and are helped by adults in this endeavour. A number of children's journals are regularly being published in various cities. The contents of these journals ranges from general interest articles to specialized areas like literature, science and travel. Almost all schools and colleges publish annual magazines. There are also regular issues of supplements in daily newspapers dealing with children's essays and writings. The Bangladesh Shishu Academy has been publishing a children's journal for the last 14 years. A recent survey of the publications of nine leading publishing houses in the country found that on the average 23 per cent of their publications are for children. In the government sector, the Bangla Academy, the Shishu Academy and the Islamic Foundation are the main publishers of children's books. The Shishu Academy has so far published about 100 books for children while on average the other two organizations devoted about 14 per cent of their publications to children. Private publishing companies/houses and other private organizations also published magazines/books for children.

4. Access to appropriate information and ideas (art. 17)

71. At present the majority of the children of the country leave the educational system early in their lives. Many never reach the system at all. In this situation, children's access to information is mainly from informal sources. The family, friends, radio, TV, cinema, newspapers, books and periodicals and video shows are the avenues through which all kinds of information is passed on. The formal publications and other media productions are monitored through various regulations and agreed guidelines. No specific standards for children, however, have yet been evolved. Parents or guardians do usually monitor and control access to materials not meant for children.

72. Information originating in other countries are accessed through books, journals, video/audio cassettes, TV programmes and radio programmes. There are no restrictions or laws controlling their entry into the country except some provisions in the import regulations which restrict the import of books, magazines, films, video/audio cassettes that are considered pornographic, subversive or liable to hurt the religious feelings of any group within the country.

5. Freedom of thought, conscience and religion (art. 14)

73. The provisions concerning the rights of the child to freedom of thought, conscience and religion refer to rights which in Bangladesh are guaranteed to every citizen through various provisions of the Constitution. Article 39 of the Constitution guarantees (a) freedom of thought and conscience; (b) the right of every citizen to freedom of speech and expression; and (c) freedom of press, subject to any reasonable restrictions imposed by law in the interest of the security of the State, friendly relations with foreign States, public order, decency or morality or in relation to contempt of court, defamation or incitement to an offence.

74. Article 41 of the Bangladesh Constitution states that, subject to law, public order and morality, (a) every citizen has the right to profess, practise or propagate any religion; (b) every religious community or denomination has the right to establish, maintain and manage its religious institutions; (c) no person attending any educational institution shall be required to receive religious instruction or to attend any religious ceremony or worship if that instruction, ceremony or worship relates to a religion other than his own.

6. Freedom of association and peaceful assembly (art. 15)

75. Under article 37 of the Constitution every citizen shall have the right to assemble and to participate in public meetings and processions peacefully and without arms, subject to any reasonable restriction imposed by the law in the interest of public order or public health. Freedom of assembly refers to the liberty of organizing and attending meetings for information, the manifestation of opinion, demonstration or similar purposes, or for the presentation of artistic productions.

76. In recent years, the people of Bangladesh have been enjoying unhindered opportunities in organizing processions and demonstrations. Children too are not very far behind in these. Various children's group have organized public meetings and demonstrations regarding the rights of the child. Regular assemblies and processions are organized on the various occasions where children take part such as the annual Children's Week, Disabled Children's Day, White Cane Day and National Independence Day. Very recently the children of Dhaka city organized a demonstration in front of the Press Club and the UNICEF office to express their solidarity with the children of Bosnia and Herzegovina.

77. Article 38 of the Constitution ensures the right to form associations. Every citizen shall have the right to form associations or unions subject to any reasonable restrictions imposed by the law in the interests of morality and public order. Associations of numerous types abound in Bangladesh. The aims and objectives of these include rural, agricultural, cultural, social, economic, religious, moral, health, sports and mental development of various sections of the society.

78. Many children in Bangladesh both in the urban and in the rural areas belong to these associations. Children's organizations traditionally were formed with the objectives of ensuring proper physical, cultural and social

development of children. There are many such grass-roots children's organizations like the Kochi Kachar Ashar, the Khelaghar Ashar, the Shapla Kurir Ashar and others. These have branches in rural and urban centres of the country and their membership often runs into tens of thousands. New organizations or associations that are emerging tend to be specialized in their aims and objectives. Thus, associations advocating the rights of children, rights of disadvantaged children, science clubs, adventure clubs or writers clubs or the like are the new trend. The Government, through the Ministry of Social Welfare and other agencies, maintains good contact with these associations and organizations. Some of the larger traditional organizations receive regular government grants.

7. Protection of privacy (art. 16)

79. Protection from intrusion into individual and family privacy is guaranteed by article 43 of the Constitution. The article states that every citizen shall have the right, subject to any reasonable restrictions imposed by law in the interest of the security of State, public order, public morality or public health, to be secure in his or her home against entry, search and seizure and to the privacy of his or her correspondence and other means of communications. This article applies to both adults and children. Such protection of privacy is a fundamental right in a democratic society. The privacy of children in a family situation depends upon the social and educational status of the parents as well as their awareness of the issue and their economic well-being. The privacy of children in institutional homes and hostels is guided by the rules of the particular institutions.

80. The privacy of children in legal proceedings is further protected by the Children's Act of 1974. The law requires children to be tried in special courts where the entry of the general public is restricted. Only essential personnel required in the trial and the guardians or parents of the child may be present. Any other person requires special authorization from the court to be present. In such proceedings, the law requires that no report in any newspaper, magazine or news agency shall disclose any particulars of any case which leads directly or indirectly to the identification of the child involved, nor shall pictures of such child be published. The print media of the country and the law enforcement agencies are not properly aware of the privacy rights of child offenders. On some occasions, news and reports appear in daily newspapers and periodicals where the children in legal proceedings are identified by their names and addresses and even photographs. Various press associations, therefore, need to observe these rights of children.

E. Family environment and alternative care

81. In the social infrastructure in Bangladesh the family is the basic fundamental unit. Family ties are very strong and the socialization process of individuals takes place within the family. It plays a significant role in the social development of the country. Individuals continue to maintain close linkage with families and continue to carry on family values in thought and actions. In fact, families in Bangladesh continue to exert influence on its members throughout their lives. According to the 1991 census of the population the country had 21.6 million families. The average family size in that year was calculated at 5.44.

82. Marriage is universal in Bangladesh. The major religions in the country encourage marriage. Family environment in Bangladesh for the vast majority of families in rural areas is dominated by the extended family network. All elders in the family look after all children of the family. Thus, grandparents, uncles, aunts, elder brothers and sisters all share the responsibility of looking after the children of the family. Women in the family play a special role in the upbringing of the children in their early years. In the urban areas where nuclear families predominate it is the parents who ensure a proper environment for their children. As only small numbers of mothers in urban areas work, the children are mainly under their care. With the rapid pace of urbanization and with more and more working mothers in urban areas the traditional picture is changing fast.

1. Parental guidance in the child's exercise of his or her rights (art. 18)

83. The Government respects the responsibilities, rights and duties of parents to provide proper guidance to their children and does not interfere in these activities. The families have important socio-economic functions and it provides the basic emotional, financial and economic support necessary for the growth and development of children. While there is less awareness of the formal rights of the child, there is widespread recognition in all sections of the society of children's special developmental needs. Even very poor parents attempt to ensure the minimum developmental environment for their child. Children are now sent to schools. Recent studies in poor communities have shown that a tremendous parental interest in the education of their children exists. The alarming figures of school drop-out rates thus do not point to an absence of demand for such education, but rather result from the financial inabilities of parents and lack of institutional facilities. Large numbers of children are regularly sent to religious schools, run free through charities, where they are educated to learn the various tenets of their religion.

2. Common responsibility of parents (art. 18)

84. The well-being and the proper development of children is the responsibility of the parents. The father, in his traditional role, is the breadwinner of the family. He ensures that sufficient resources are available for food, clothing, shelter, education and entertainment of the family. The mother usually looks after the house. In the initial years mother has a crucial role to play for the child. As the child grows up the father's role expands. The Government plays no active role in ensuring the common responsibility of parents other than encouraging family life. However, government activities in the fields of health and family planning result in considerable parenting education. The information being generated and disseminated by the Government on radio, TV and in the print media on children's health, nutrition, educational needs and other developmental needs are educating previously unaware parents and making them more responsible. Bangladesh has one of the best child survival records in the world these days.

85. The Government has promoted broad policies to promote equality between men and women within families through creation of employment opportunities, the provision of skills-development training and the encouragement of planned parenthood. In promoting smaller family sizes, the government policy also

aims at gender equality in the family. In the face of the traditional son preference in Bangladesh society, the slogan for family planning is "Whether they are boys or girls, two children are enough". The programme launched by the Government aims at strengthening families to discharge their responsibilities smoothly and effectively. The main objectives of the government policies and programmes are to enable the family as the smallest unit of the society to bring about a change conducive to cohesive community development which in turn will contribute substantially to overall national development.

86. While the upbringing of children is the common responsibility of both parents, it is often the mother who has to bear the bulk of this responsibility. For many families, the male member has to live at his workplace away from his children and spouse. This workplace may be in a city within the country or, as in a large number of cases now, outside the country. The high cost of living in cities forces many husbands to leave their families in the village. In the other case, people working mainly in various Middle Eastern countries in low-skilled jobs cannot afford to take their families with them. Children of these families are brought up mainly by their mothers.

3. Assistance to parents (art. 18)

87. The welfare of the family has been given top priority by the Government in its social development programmes. In promoting small family size, the government policy also aims at gender equality. As mentioned above, there are of course no formal facilities for parenting education in Bangladesh. This is acquired through family and formal associations and also as a by-product of formal promotional activities in the fields of health, nutrition and education by governmental agencies and NGOs.

88. To help families, especially those headed by women, the Government and the NGOs in the country have been running a number of targeted programmes involving areas such as credit and entrepreneurship, skills development in different trades, poverty alleviation, vulnerable group development and so on. Some of the projects worth mentioning are women's vocational training for population activities, self-reliance project for rural women, agriculture-based programme for rural women, NGO community-based programme for women and children, technology for employment of rural women, rural mothers' club project.

89. Information regarding higher risk or exposure to living conditions prejudicial to proper development of children in the country is meagre. Family problems relating to broken families, single parenthood, insufficient spacing of birth, polygamy, parental alcoholism or drug abuse are found to some extent. The society being predominantly traditional, the magnitude of most of these problems is yet small. However, with the rapid social transformation relating to urbanization and industrialization, some of these may emerge as serious problems. Thus information systems, laws and support services attending to these situations should be put in place as soon as possible.

4. Child care (art. 18)

90. Facilities for institutional child care have yet to be developed adequately. In rural areas the children of poor working mothers are normally left in the care of relatives in the extended family or neighbours. In urban areas, the situation is not very different. Working mothers from poor areas or slums mostly leave their children alone or with relatives or neighbours if they are lucky. For the small number of working mothers from the middle- and upper-class neighbourhoods, house-maids or servants often provide the bulk of the day-care requirements.

91. Institutional day-care facilities have only begun, and that on an extremely modest scale. The Government through the MSW and MWACA, run some day-care centres in the capital city. The day-care centre as an institution has yet to develop in the private sector. Some national and international NGOs also maintain day care for working mothers. The Government also runs three baby homes for destitute children and abandoned infants where a total of 225 children are cared for. These are located in Dhaka, Chittagong and Rajshahi cities.

92. The exact number of orphaned children in the country is not known. However, with the kind of socio-economic development level and the general health and nutritional status, the figure is estimated to be significant. Their numbers are on the increase due largely to accidents, natural disasters such as cyclones, floods and tornadoes and other calamities. The Government attempts to provide care to orphaned children through a network of orphanages. To provide permanent care to orphaned children, the Government, through the DSS, maintains 73 centres with a capacity of 9,500 children throughout the country. About another 70,000 orphaned children receive care in 1,270 centres run by various NGOs. Out of these 1,270 centres, 972 receive partial grants from the Government. Some of the NGOs receive food aid from the Government.

5. Recovery of maintenance for the child (art. 27)

93. The Family Courts Ordinance, 1985 regulates the maintenance of children in case of separation or divorce of parents. A father is bound to maintain his sons until they have attained the age of puberty. He is also bound to maintain his daughters until they are married. But he is not bound to maintain his adult sons unless they are disabled by infirmity or disease. The fact that the children are in the custody of their mother during their infancy does not relieve the father of the obligation to maintain them. If the father is poor and incapable of earning by his own labour, the mother, if she is in easy circumstances, is bound to maintain her children as the father would. If the father is poor and infirm, and the mother is also poor, the obligation to maintain the children lies with the grandfather, provided he is in easy circumstances.

6. Separation from parents (art. 9)

94. According to the tradition and practice of Bangladesh society the children normally reside with their parents. In case parents fail to do their duty of proper child rearing there are legal instruments to separate the children from such parents in their best interest. The Children's Act of 1974

empowers a juvenile court to provide for the separation of a child from his or her parent or legal guardian if they are found to be habitually neglectful or cruel towards the child. The court may order such a child to be sent to a certified institute or approved home or may order him or her to be committed to the care of a relative or other fit person named by the court and willing to undertake such care, until such child attains the age of 18 years or for any shorter period.

95. The court which makes an order committing a child to the care of a relative or other fit person can require that the person execute a bond, with or without sureties, to be responsible for the good behaviour of the child and for the observance of such other conditions as the court may impose to ensure the child may lead an honest and industrious life.

96. Where a parent or guardian of a child complains to a juvenile court that he or she is unable to control the child, the court may, if satisfied on inquiry that it is expedient to so deal with the child, order the child to be committed to a certified institute or an approved home for a period not exceeding three years.

97. As for the physical facilities for certified institutions and approved homes, the Government so far has been able to provide for two correctional institutes with a total capacity of 350 children, and 22 probation service centres with a total capacity of 220 children. It has plans to expand such facilities to the divisional headquarters.

7. Family reunification (art. 10)

98. There is no specific law dealing with the right of a child to reunification with his/her parents. A Bangladeshi child is eligible to enter/leave the country on presentation of valid travel documents.

8. Illicit transfer or non-return of children

99. Illicit transfer of children is not a problem of the society at present. Kidnapping by parents is unheard of in the country. Newspaper reports of such problems, especially when one of the parents is a foreigner, do appear rarely.

9. Alternative care, including adoption (arts. 20, 21)

100. Except for the intervention of the competent court no child can be removed from his parents against their will and unless the parents are arrested. Even then, a child of tender age in the greater interest of the minor is permitted to reside with the mother in jail up to a specified age determined by the jailer, four years to six years as provided in the Jail Code.

101. The Bangladesh Abandoned Children (Special Provision) Ordinance 1970 attempted to define an "abandoned child" and provided for some kind of procedure for adoption of such child. This was repealed by the Bangladesh Abandoned Children Repeal Ordinance of 1982. Muslim law does not recognize

adoption per se. Under the Guardianship and Wards Act 1890, guardianship of a minor child is permitted by a competent court in the best interest of the child.

102. The MSW runs a baby home with 225 places to provide care and protection to abandoned and unclaimed babies. The home collects and admits abandoned babies left in hospitals, roadsides or at other places at its own initiative or on referral by hospital authorities, police and others. This home looks after the babies from birth until they reach the age of five. The babies who pass the age of five are transferred to State orphanages. Some NGOs also run baby homes.

10. Abuse and neglect

103. Children in Bangladesh are protected from abuse and neglect by law. The Children's Act of 1974 has clear specifications on penalties for cruelty to children, for employing children to beg, for being drunk while in charge of a child, for giving intoxicating liquor or dangerous drugs to a child, and for permitting a child to enter places where liquor or dangerous drugs are sold. There are many other clear instructions in the 1974 law and other laws of the country that is meant for safeguarding abuse and neglect of children.

104. Government efforts at tackling child abuse and neglect are supplemented by the efforts of NGOs.

11. Periodic review of placement (art. 25)

105. As per the provisions of the Children's Act of 1974, periodic review of children placed in the certified institutes or in approved homes is the responsibility of the concerned juvenile court. The court carries out this activity through the periodic reports of the probation officers it appoints to monitor the development of the child in the institute or home. These reviews, however, are a review of the conditions of detention.

F. Basic health and welfare

1. Survival and development

106. The Constitution of Bangladesh guarantees the right to life and personal liberty. Births are usually attended by female family members with perhaps an untrained villager or friend to help. Fewer than 10 per cent of rural births and 45 per cent of urban births are attended by someone trained in modern obstetric practices. Within hours of birth 12 children out of every 1,000 die, 8 of them from birth injuries, often caused by untrained attendants, 3 because of prematurity and 1 of other causes. Low birth weight babies have a high risk of mortality. Approximately a third to a half of all newborn babies weigh less than 2,500 grams. Maternal malnutrition, small stature of the mother, infections during pregnancy, anaemia and closely spaced pregnancies are contributory factors to low birth weight.

107. In the first week of life, of the cohort of 1,000 newborns being followed, a further 23 babies die - 16 because of prematurity, 5 because of neonatal tetanus and the remaining 2 of other causes. Between the first week of life and the end of the first year, a further 75 per 1,000 live births die - 11 from tetanus, 24 from acute respiratory infections, including pneumonia, 13 from diarrhoea and 27 from other causes.

108. Clean water for drinking is now available to over 96 per cent of all households. Unfortunately, little effect has been shown so far on diarrhoeal disease incidence rates because the other causal factors have yet to be removed. Over 96 per cent of the population use tubewell water for drinking purposes but only 16 per cent use it for all their needs. Given the abundance and easy accessibility to surface water, most people still use ponds and other natural waterways for washing, thereby exposing themselves to diarrhoeal and water-borne diseases.

109. The Child Nutritional Status Survey 1989-1990 of the Bangladesh Bureau of Statistics reported that over a third of all children were severely stunted and another third were moderately stunted. Two thirds of all children were underweight and more than 14 per cent were wasted. The Ministry of Health and Family Welfare has already set up a National Nutrition Council and a National Nutritional Policy is under way.

2. Health and health services

110. Health care system. Broadly speaking, health-care services in the country are delivered by four distinct sectors: public, private, semi-government and traditional. The public, private and semi-government as distinguished here essentially refer to the allopathic system of modern medicine. The modern health-care delivery system is based on the primary health-care (PHC) concept which has the following five levels of service delivery: (a) home and community level; (b) union level: union subcentres/health and family welfare centres; (c) thana level: thana health complex; (d) district level: district hospital; and (e) national level/tertiary referral level.

111. The last 15 years have seen considerable expansion of the health infrastructure. In addition to district hospitals, there are now 83 functioning maternal and child welfare centres at the district and thana levels, most of which have 10 beds, a staff of two FWAs and a supporting staff. Almost all of the 460 thanas have a thana health complex each of which serves an average population of over 200,000. About 3,400 out of the 4,400 unions have either a union health and family welfare centre or a rural dispensary, each providing outpatient care to about 25,000 people.

112. Special health-care programmes. The Government is committed to achieving Health For All by the Year 2000 by adopting the primary health-care approach. As of 1989, the estimated under-5 child population of the country was about 16.5 million which represents 14.9 per cent of the total population. It is estimated that over 800,000 children under 5 die each year in Bangladesh. These children die mainly from diseases such as diphtheria, pertussis, poliomyelitis and tuberculosis. Against this backdrop, the Government

undertook a number of special programmes of preventive and promotive interventions to reduce mortality and morbidity. Some of the major programmes are:

(a) Expanded programme on immunization (EPI): EPI has made a significant breakthrough in the country with coverage increasing from about 2 per cent in 1985 to 77 per cent in March 1990. It now (1993) covers 92 per cent of children under the age of 2 years and 80 per cent of reproductive age women. Coverage levels established in 1990 have been sustained. In February 1993, 74 per cent of all children in the 12-23-month age group were fully immunized. Coverage of all six antigens (fully immunized) among the 0-11-month age group reached 50 per cent in 1992;

(b) Control of diarrhoeal diseases (CDD): Using governmental and non-governmental channels, the two basic strategies to control diarrhoeal diseases have been home based oral hydration therapy (ORT) to prevent dehydration and increasing the production and access to oral rehydration salt (ORS). The diarrhoea epidemic control programme has also received priority attention. Diarrhoea training units in medical colleges and ORT corners at health clinics have been established. While ORT awareness is high at 93 per cent the ORT usage rate is only 53 per cent. Of all who get treatment, fully half get ORS;

(c) Acute respiratory infections (ARI) disease control: Nearly 30 per cent of all deaths among under-5 children can be attributed to ARI, 90 per cent of which are from pneumonia. The remaining 10 per cent is due to measles, which is being addressed by the EPI programme. A national action programme has been developed and due priority has been given to ARI in the Fourth Five Year Plan;

(d) Maternal and neonatal health: The training of traditional birth attendants (TBA) is fully under way to ensure safe delivery. So far, 3,000 TBAs have been trained. The aim is to have a trained TBA in every village. A low-cost safe delivery kit has been prepared and marketed. NGOs have also developed programmes for TBA training. Tetanus causes 50 per cent of neonatal deaths in Bangladesh. Due to high tetanus toxoid coverage (80 per cent in 1993) the incidence of tetanus has dropped to less than half of 1986 levels (41/1000 live births in 1986 to 10-16/1000 live births in 1990);

(e) Iodine deficiency disorder (IDD): Iodine deficiency disorder is a major problem in Bangladesh. Recent unofficial reports state that 44 per cent of the population of the hilly areas suffer from visible goitre. About 36 per cent of the population (40 million people) are classed as vulnerable. Legislation for universal salt iodation was passed in August 1989. Since 1 January 1994 sale of non-iodized salt has been banned. Since October 1991, 120 salt iodation plants have been commissioned in major salt industries for the production of iodized salt. The availability of iodized salt has increased dramatically in recent years from 0 per cent in 1987 to 19 per cent in 1991;

(f) Nutritional blindness prevention programme: Nutritional blindness due to vitamin A deficiency is a serious problem in Bangladesh. More than 900,000 children under six suffer from night blindness. It is estimated that 30,000 children become blind each year and that 50 per cent of these children die within a few months of the blinding episode. The Government has initiated action to control this by distributing vitamin A. Coverage varies from 45-70 per cent in different areas of Bangladesh. Efforts are also under way to promote increased consumption of available green leafy vegetables;

(g) Promotion of breast-feeding: Breast-feeding, with its advantage for child health, has been widely advocated and promoted. Its nutritional, immunological and mother-child bonding aspects have been emphasized. The campaign for the Protection and Promotion of Breast-Feeding (CPPBF) was established in 1989 by a group of concerned professionals. The "baby friendly" hospital initiative (BFHI) of Bangladesh was initiated by the CPPBF in 1990. In August 1992 eight hospitals were assessed by an international review team. Three hospitals were certified "baby friendly" and five received certificates of commitment. Legislation has been enacted banning the import of baby food to encourage breast-feeding;

(h) Child nutrition: The combination of poverty and ignorance has contributed to the high prevalence of severe malnutrition. Nearly one third to one half of the babies born are below 2.5 kg. The National Nutrition Council has been revised, strengthened and entrusted with the task of formulating a nutrition policy for improving the nutritional status of children. The Government has also established 20 child nutrition units at the thana level to promote nutrition information among villages.

3. Disabled children (art. 23)

113. In the Constitution of Bangladesh the basic rights of disabled persons have been guaranteed along with those of normal people. The Government is very conscious of its commitments to achieving the goals of the World Programme of Action concerning disabilities to be implemented during the United Nations Decade of the Disabled. As a result, a comprehensive national policy indicating measures for ensuring the rights of disabled persons is being mooted by the Government. The policy will aim to equalize their opportunities in education and training for their skill development and rehabilitation. Measures will also be taken for the creation of employment opportunities, income maintenance and social security. The accessibility of the disabled to the physical environment, public information (through Braille, sign language, audiovisual aids) will be enlarged. To increase their employment opportunities the policy will provide incentives to employers, fixed quotas for employment, as well as provide for the detection, treatment and prevention of disabilities. The policy is being prepared jointly with relevant government departments and NGOs.

114. Keeping in view the main goals of the World Programme of Action concerning Disabled Persons, 1983-1992, i.e. prevention of disability, rehabilitation of disabled persons and equalization of opportunities for people with disabilities, a number of measures have already been initiated in the country to identify the causes of disability and difficulties/obstacles to its prevention, and rehabilitation and equalization of opportunities for the people with disabilities.

115. While a national policy for the welfare of disabled people is being prepared, certain provisions for ensuring some of the basic civil rights of disabled people in a limited manner have been introduced in the country through different programmes and activities undertaken both at the government and NGO levels since the early 1960s. To promote the employment of disabled persons, including orphans and destitutes, 10 per cent of jobs (in the non-gazetted category) have been kept reserved in all government employment suitable for them through administrative decision of the Government.

116. National Development Plans have consistently taken up projects and programmes which directly benefit disabled persons and the required funds for these projects and programmes have been arranged from local, national and international sources. In this context, it may be mentioned that the Second, Third and Fourth Five Year Plans of Bangladesh specifically included welfare and development of disabled persons as one of their main activities. The Department of Social Services under the Ministry of Social Welfare successfully implemented the projects and programmes included in the Second and Third Five Year Plans (1980-1990). The projects undertaken in the Fourth Five Year Plan are also being implemented on schedule. Table 2 indicates the number of projects taken up in each of the plan periods with their financial allocations:

Table 2. Number of projects and allocations for the disabled

Plan period	No. of projects	Allocations (Tk. million)
Second plan (1980-1985)	8	63
Third plan (1985-1990)	4	139
Fourth Plan	7	110
Total	19	312

Programmes

117. The Government, with the assistance of UNICEF and several NGOs, has taken a number of preventive measures including: (a) the expanded programme of immunization (EPI); (b) distribution of vitamin A capsules; (c) treatment for diarrhoeal diseases; (d) breast-feeding; (e) nutrition supplements to pregnant mothers for minimizing death as well as some disabilities among the children.

118. Special education and other services provided by the Government: The MSW is responsible for planning and implementing different programmes for the protection, care, education, training and rehabilitation of the disabled. These are:

(a) Physically handicapped centres: There are three composite physically handicapped centres where education up to primary level along with prevocational training for children with hearing and visual impairment is provided. Residential facilities are available for students;

(b) Schools for hearing/visually impaired: There are three primary schools for hearing impaired and one secondary school for the visually impaired. All these schools have partial residential facilities. Prevocational training is also provided at the school;

(c) Integrated special education programme: There are 47 integrated units for special education for visually impaired within different secondary schools in different districts run by the Government. In order to assist these students to catch up with general students the Government has arranged one resource teacher and one resource room in each of these schools. Special coaching to teach Braille, abacus and mobility are being provided there. The students are also supplied with Braille books, teaching and other aids. The total capacity of the institutions for the disabled is 1,140 at a time; 3,195 students have so far been admitted to these institutions out of which 2,456 graduated successfully and were rehabilitated through jobs and self-employment;

(d) Vocational training and employment facilities: During the United Nations Decade of Disabled Persons, the Government set up the Employment and Rehabilitation Programme for the Handicapped (ERPH) with financial and technical assistance from SIDA and the Swedish Free Mission. The ERPH was established with a capacity to accommodate 105 trainees per year. The trainees are mostly selected from different government and privately run special schools according to their aptitude and interest. Some orthopaedically handicapped are also admitted there. They are trained in mechanical trades, tailoring/canvas work, woodwork, poultry raising. Within this centre an industrial production unit has been running for higher training-cum-production of plastic products where 90 per cent of the workers are disabled, mostly deaf and orthopaedically handicapped. Since a majority of the population of Bangladesh live in the rural areas a pilot rural rehabilitation centre with a capacity of 40 trainees per year has been established at Fakirhat, Bagerhat, with the same purpose. A National Centre for Special Education (NSCE) has also been established by the Government to cater for the special educational needs of the disabled.

119. Services provided by NGOs. There are many NGOs which have been rendering services to the disabled for a long time. In order to facilitate, standardize, coordinate and encourage these NGOs, the Government is helping them with legal support, needed guidelines and other support for developing the right type of programmes and mobilizing local and foreign assistance. In some cases the Government has provided financial and technical support. For example, the Government has provided physical infrastructure, including building, furniture and equipment, to two national NGOs, the Bangladesh National Federation of the Deaf and the Society for Care and Education for the Mentally Retarded, to the tune of Tk 26.64 and 15.8 million respectively for the purpose.

120. A recent study reveals that about 117 NGOs have so far been established and registered with the Department of Social Services for the welfare of disabled persons. Programmes undertaken mainly focus on the following areas: special education, training and rehabilitation of the disabled and awareness-building amongst the parents, guardians, planners, policy-makers and general people about the issue of disability.

Table 3. Number of NGOs servicing disabled children

Disability type	National organization	Branch of national organization	Local organization
Visually impaired	2	52	9
Hearing impaired	1	6	9
Mentally retarded	1	21	1
Orthopaedically handicapped	1	3	5

4. Social security (art. 26)

121. The country's economic situation at present does not allow the type of social security system that is available in the developed countries. A very limited measure of social security is available to the formal sector workers and officials in the form of pensions and various types of insurance. The vast majority of the population, engaged in the informal sector, does not have access to such facilities. The extended family system provides the only form of social security for the majority of the children in the country. The security provided by the Government in the form of the network of orphanages run by the MSW as well as the orphanages run by the NGOs is not quite sufficient.

5. Standard of living (art. 27)

122. With the very low family income it is very difficult for families to provide for the proper nutritional, housing and clothing needs. A large number of people get only 1,800 calories per day and live in very dilapidated slum conditions without any amenities or services. The improvement of the condition is related to the overall development of the country. However, the Government has, since 1986, taken up environmental improvement programmes in slum areas of large cities and towns. The Slum Improvement Project (SIP) run by the Local Government Engineering Department (LGED) has since been extended to a total of 25 towns all over the country including the four largest urban centres. The project benefits more than 35,000 families.

123. In the rural areas the Department of Social Services operates programmes like the Expanded Rural Social Services Programme, the Thana Social Services Programme, the Community-Based Family Development Programme, and the Rural Mother's Club for Population Activities. The Expanded Rural Social Services Programme aims at overall welfare of the rural families in all thanas of the country (a thana covers 150,000 to 200,000 people on average).

6. Drug abuse

124. The use and abuse of drugs has a long history in Bangladesh. During the British colonial rule, the legal sale of opium and cultivation of cannabis was organized and supervised by the Excise and Revenue Department and codified in a number of Acts, such as the Opium Act, 1878, the Bengal Excise Act, 1909, the Dangerous Drugs Act, 1930 and Opium Smoking Act, 1932. During the Pakistan regime, there was no basic change in the legal framework except some amendments to suit the need of the time. In 1984, the Government banned the consumption of opium and closed the opium vends in the country. In 1989 the cultivation, trade and use of cannabis was banned. At present, there is no legal cultivation, trade or use of opium or cannabis in Bangladesh. Hard drugs such as heroin and cocaine were unknown in Bangladesh until about 1983 when heroin was first detected.

125. The Government of the People's Republic of Bangladesh promulgated the Narcotics Control Act in January 1990. To fulfil the objective of this Act, the National Narcotics Control Board was reconstituted and the Department of Narcotics Control was established. During the last 1½ years, the Department has shown significant achievements in mobilizing public opinion against drug abuse, apart from carrying on enforcement activities. There is no scope to feel complacent with the present performance, particularly in the backdrop of drug addiction in this part of the world.

126. A few statistics of the recent past relating to seizure, arrest, etc. in Bangladesh will throw some light on the nature of drug abuse in Bangladesh. The Department of Narcotics Control filed 1,753 cases and arrested 1,471 offenders for drug trafficking during 1990. Of these offenders, 171 were for heroin, 10 for cocaine, 10 for opium, 585 for cannabis and 530 for illegal distillation. During the period January to June 1991, 679 persons were arrested in 771 cases of illicit trafficking. During the year 1990, about 1,137 drug addicts were treated in the Central Treatment Centre, Dhaka. Of these patients, 65 per cent were in the age group of 21 to 30 years, 54 per cent were married, 30 per cent were unemployed, 13 per cent were drivers of different vehicles, 25 per cent were illiterate and the education of about 31 per cent was below secondary school level. The Bureau of Statistics has undertaken a programme for an epidemiological survey which is expected to reveal details about the drug abuse trends in Bangladesh.

G. Education, leisure and cultural activities

1. Education, including vocational training and guidance (art. 28)

127. Existing educational structure. Basic education in the country consists of five years of primary education followed by five years of secondary education and two years of higher secondary education. The higher education system comprises a two-year course for a Bachelor's degree in liberal arts or science or a three-year honours course for a Bachelor's degree or a four to five year course for a Bachelor's degree in a professional discipline. Post-graduate courses leading to the M.A., M.S.S., M.Sc., M. Phil. and Ph.D degrees are available in almost all faculties, including some specialized

post-graduate studies in professional subjects. A parallel system of religious education known as the madrasah system also exists with similarly advancing levels.

128. According to a recent government survey there were some 49,968 primary schools, 2,000 junior high schools, 8,715 secondary schools, 10 cadet colleges, 870 colleges and 9 universities in the country in 1991. There were 105 other institutions offering technical and engineering education at different levels, 65 institutions for medical (both modern and traditional) and 68 institutions for teacher training of different categories. In addition, there are a number of institutions for special types of education, such as 239 Sanskrit and Pali elementary schools, some 2,500 kindergartens, 868 madrasahs, and 58,124 mosque-based maktabs or elementary schools teaching the reading of the Holy Quran and religious education. According to a report of the Bangladesh Bureau of Educational Information and Statistics (BANBEIS), the total number of students in all of the 160,574 educational institutions in the country in 1991 was 21,050,000. The total number of teachers in all these educational institutions was 583,420. As of 1991, out of 17,020,000 children only 12,869,000, or 75.6 per cent went to school, 60 per cent of them dropped out and only 40 per cent completed their primary school cycle up to grade V.

2. Aims of education (art. 29)

129. The planners in the country have put emphasis on investment in education for human resource development early on. It is significant that all the Five Year Plans in Bangladesh laid emphasis on investment in people, in primary education and human resource development and had included reduction of illiteracy as an important objective. The first Five Year Plan provided for increasing enrolment from 6 million to 8,590,000 (increase in enrolment of the age group from 58 per cent in 1973 to 73 per cent in 1978), increased participation of girls and the modification of curricula to make them "more relevant to real life circumstances in the country". The major educational objective of the Second Five Year Plan (1980-1985) was to "eliminate illiteracy and achieve universal primary education as steps for comprehensive human resource development". The Plan envisaged an increase in enrolment from 7 million to 13 million (58 per cent to 91 per cent of the age group 5-10 years) and to reduce urban/rural and male/female disparities, laid emphasis on reduction of wastage in the primary education system and aimed at a 50 per cent completion rate by the year 1987. As regards increasing the access to education, it provided for a norm of one school for 2,000 people or 2 sq. km. The Third Five Year Plan (1985-1990) also had "universal primary education and human resource development" as one of its major objectives. The Plan aimed at increasing enrolment to 70 per cent of the primary age group population to "ensure their retention for completion of the primary school cycle in order that Universal Primary Education might be achieved by the end of the century".

130. The current Fourth Five Year Plan (1990-1995), like the previous plans, aims to accelerate economic growth, but focuses on poverty alleviation and employment generation through human resource development. It has the following 11 objectives for the education sector, of which 9 may be taken to relate to basic education for children, youth and adults: (1) to introduce compulsory primary education; (2) to reduce mass illiteracy; (3) to enlarge

and upgrade the base of science education at all levels; (4) to enhance the functional character of technical education and vocational training by making them more job-oriented through constant and appropriate links with the employment market; (5) to extend support to the universities to maintain an optimum size as warranted by manpower planning; (6) to develop higher institutions of learning, namely, the general and professional universities and the Bangladesh Institutes of Technology as "centres of excellence"; (7) to ensure optimum use of existing facilities at all levels and to introduce a process of accountability in the education system; (8) to utilize the multisectoral potentials of education with respect to other objectives, awareness, population planning, extension services, etc; (9) to maintain regional balance in respect of the growth of educational facilities; (10) to ensure enhanced participation of women in every possible sphere of education; and (11) to inculcate moral values in society.

131. Expenditure on education. The index of public sector expenditure on education at constant prices, both development and revenue outlays taken together, increased from 100 in 1974/75 to 446.9 in 1989/90 showing a growth rate of 10.5 per cent per annum. From the commencement of the Third Five Year Plan in 1985/86 to 1991/92 this rate escalated further at a rate of 18.61 per cent per annum. Public expenditure on education had increased from 1.1 per cent of GNP in 1975 to 1.5 per cent in 1980, 1.6 per cent in 1985 and 1.9 per cent in 1990. Although this is indicative of significant efforts on the part of the Government, the resources available to this sector are still short of actual requirements and far below the Asian average of 4.5 per cent of GNP (1987).

132. Yet it is to be reckoned that in the original Fourth Plan, out of the total allocation of Taka 23,627.3 million for the entire education sector, Taka 12,138.9 million (51.38 per cent) were earmarked for the primary education subsector and Taka 447.5 million (1.92 per cent) for mass education. In the Three Year Rolling Investment Programme (TYRIP), fiscal year 1993-1995, the allocation for primary education was increased to 59.93 per cent of the total education sector. Budgetary allocations to the education sector, both from the revenue budget and the annual development plan allocations, have been continuously increasing. Between 1988/89 and 1991/92, the revenue budget allocation to the education sector increased from 13.7 per cent to 14.0 per cent and in the same period the development allocation increased from 5.96 per cent to 8.65 per cent. During the same time, the share of primary education out of total education increased in the development budget from 47.1 per cent to 73.7 per cent and in the revenue budget from 45.9 per cent to 46.8 per cent.

Significant education projects

133. Primary education. The attempt to universalize primary education started during the Second Five Year Plan and during the Second and Third Plans the Government implemented the First and Second Primary Education Projects. Both these projects had different components to strengthen the primary education subsector aimed at improvement of management, simplifying curriculum, revising textbooks and providing teachers with better training, etc. It was decided that similar activities should continue during the Fourth Five Year Plan. The bulk of the Fourth Plan was allocated to two programmes: (a) Development of

Primary Education in Dhaka, Rajshahi and Khulna divisions at a cost of Taka 7,636.7 million; and (b) Development of Primary Education in Chittagong at a cost of Taka 2,751 million. These two programmes provide a model for undertaking multiple interlinked activities to strengthen the primary education system. The programmes, together known as the General Education Project (GEP), aims to increase the enrolment in primary schools and finding new methods to attract and retain poor and disadvantaged girls. The cost of primary education per pupil is expected to be reduced through reduction of drop-outs and repetitions and more efficient deployment of teachers. The total project cost is US$ 310.2 million. The GEP aims at increasing equitable access, improving the quality of education and strengthening the management quality of primary education. Components of the project include physical construction and repair of school buildings, operating satellite schools, non-formal education programme, female secondary school scholarship programme, training of primary school teachers, curriculum and textbook development.

134. Non-formal education. In Bangladesh children who cannot or do not get enrolled in primary schools, those who drop out from schools, adolescents who relapse into illiteracy or youth and adults who have never benefited from any schooling receive non-formal education. Recognizing the importance of non-formal education, during the current Fourth Plan a project entitled Integrated Non-Formal Education Programme for the age groups 4-5, 6-12 (drop-outs and never enrolled in schools) and adult has been undertaken. Through NGO initiatives and government programmes a variety of night schools, community literacy centres, pre-primary feeder schools, satellite schools and mosque-based maktabs have been operating to provide non-formal education. These efforts have achieved encouraging results even though their coverage is very limited. Most leading NGOs have literacy programmes in the field, such as Bangladesh Rural Advancement Committee (BRAC), Swanirvar Bangladesh (SB), Village Education Resource Centre (VERC), Proshika Manabic Unnayan Kendra (PMUK), Bangladesh Association for Community Education (BACE), Underprivileged Children's Educational Programme (UCEP), Dhaka Ahsania Mission (DAM), Jagoroni Chakra and many others. Since a large number of children are not enrolled or drop-outs, some NGOs pioneered systems of non-formal education designed to reach those children who are outside the government system. BRAC, for example, has 12,000 schools covering 360,000 rural children, and plans to expand to 50,000 schools by 1995. The drop-out rate is as low as 2 per cent and about 70 per cent of the students are girls. Over 95 per cent of their graduates join formal primary schools in grades IV and V. Thus, BRAC's non-formal education acts as a feeder and complementary system to the formal stream. The teachers in most cases are women.

135. The most successful community-supported schools are those run by BRAC, a voluntary organization established after the war in order to help destitute women and families. BRAC started its experimental programme in 22 villages and by late 1989, the number of schools reached 2,500 and another 2,000 were to be established by 1991. The main idea is to provide basic literacy and numeracy for children from landless families in a three-year period by professional teachers (somewhat like barefoot doctors in China) selected from the local community. One of the main goals is also to attract female children and employ female teachers. There are two primary school models - non-formal primary education (NFPE) and primary education for older children who have

never gone to school. These schools have tried to remedy some of the deficiencies of the formal school system, e.g. through community participation in management of school, flexible school time for working children, a carefully developed curriculum to match the socio-economic environment of the poor families, etc. It has been found that parents are eager to send their children to school and, contrary to popular belief, economic activity of children is not a constraint to children's attendance in school.

136. The Underprivileged Children's Education Programme (UCEP) has made a modest but noble effort to help working children attain basic literacy and vocational skills. UCEP began its operations in 1972, with two distinct programmes - the General School Programme and the Technical Education Programme. The former is designed to give underprivileged (working) children an opportunity for basic education. Within the four-year period the children complete the curriculum which covers language (English and Bangla), mathematics, social studies, physical and environmental science. UCEP provides for general (basic) education up to completion of grade VIII. It runs two academic sessions, each having 135 school days, in a calendar year. The lessons are specially focused on learning skills, and the utilization of a shortened school year is optimized by keeping the syllabus contents relevant to the practical needs of the students.

137. The UCEP Technical Education Programme takes in as many children as possible from the UCEP general school to train them in a technical trade. Graduates are in good demand in the employment market. Trade courses, with practical training, are of 1-3 years in duration and enable graduates to have skilled jobs. Usually, girls are fewer in the technical schools, but UCEP's policy is to promote girls' participation in technical education. Some specific trades such as making garments, knitting and basic electronics are aimed at increasing marketable skills among the girls.

138. There are 23 general schools with more than 11,000 children and three technical training schools with 1,100 students participating at a given time in three cities, Dhaka, Chittagong and Khulna. UCEP is mostly donor funded. It may seen to be an expensive endeavour, but in fact it is cost effective. All expenses for education and training of the poor children and adolescents are borne by UCEP. Eventually, the children are turned into adult semi-skilled and skilled workers through the UCEP non-formal education and training programmes.

139. As a part of the efforts to improve the socio-economic status of the poor working children, UCEP facilitates, through its employment support component, proper employment of its target group following their education and training. For this purpose UCEP establishes "dynamic linkage" with employers, especially in the private sector.

3. Leisure, recreation and cultural activities

140. The Government is highly aware of the recreational and cultural needs of

sector is the Shishu Academy. The SA organizes countrywide cultural activities through its national headquarters and its district branches. These cultural activities include songs, dances, drama, children's films and others. The Academy also organizes countrywide competition in all these activities. The Academy maintains a children's library and publishes a children's magazine. Besides the Academy, other private children's organizations such as the Kochi Kachar Ashar and the Shapla Kurir Ashar also organize cultural activities. Schools and colleges are also important institutions for organized games and cultural activities for children in the country.

H. Special protection measures

1. Child refugees and asylum-seekers (art. 22)

141. Instances of large-scale child asylum-seeking has not been experienced by Bangladesh to this date. The large number of Myanmar refugees seeking asylum in Bangladesh involved a large number of children. Everyone was given asylum and properly taken care of with the help of the Government's own resources as well as with the help of United Nations agencies and national and international NGOs.

2. Children in conflict with law (arts. 40, 39, 37)

142. The treatment and the rights of children in conflict with law in Bangladesh is guided by the Children's Act of 1974. This law was enacted with the aim of consolidating and amending the laws relating to the custody, protection and treatment of children and the trial and punishment of youthful offenders. The law empowers the Government to establish one or more juvenile courts for any local area.

143. When a juvenile court is established in a local area, all cases in which a child is charged with the commission of an offence shall be tried in that court. The law also requires that no child shall be jointly charged with or tried for any offence together with an adult. In the trial of a case in which a child is charged with an offence the court, as far as practicable, is in a building or a room different from that in which the ordinary sittings of the court are held, or on different days or at different times. Information or photographs identifying the child involved in the court proceedings cannot be published in print or any other media.

144. The law further provides guidelines for consideration of the court, e.g. character, age, circumstances of the child, report of the probation officer and other matters in the interest of the child. Bail for the juvenile offenders has been encouraged and if not bailed out he is required to be detained in a remand home or a place of safety. Immediately after arrest the law requires that the police officer request the probation officer to obtain information regarding the background and other circumstances of the child.

3. Torture, capital punishment and inhuman treatment

special circumstances. Generally, certified institutions have been recommended for detention of youth. Children are also protected by this law from abusive parents and guardians.

4. Child labour (art. 32)

146. In an agrarian economy such as Bangladesh, the connotation given to child work may be problematic because children take part in various activities and for different reasons. Children perform purely household activities, various productive work within the family enterprise and also work as wage labour outside the household. They work either to assist their parents or to learn certain skills or purely for reasons of survival. Whether such activities should be considered deleterious to their physical and mental development depends on the length, intensity and the nature of the work. Light household work may not be harmful but beneficial to the extent that work does not interfere with school attendance.

147. However, in poor households, children's participation in household work often constitutes an integral part of the household's survival strategy because it enables the adults to perform productive work. In such cases, children are forced to work long hours regularly and are hindered from going to school.

148. According to the Children's Act, children under the age of 15 will not be employed or permitted to work in any occupation connected with (a) transport of passengers, goods or mails by the railway; (b) and handling of goods within the limits of any port. The existing law also bars children below 12 years of age from working in workshops. It does not, however, forbid any child from working as an apprentice or from vocational training. The Act further implies that it does not restrict child employment in agricultural activity or any other light work in the informal sector.

149. Two Acts, the Children (Pledging of Labour) Act of 1933 and the Children's Act, 1974 are more comprehensive and more applicable to all kinds of employment of both in agriculture and industry. The 1913 Act bars the employment of children in activities that are detrimental to their health and in which the contract is not terminable within a week's notice.

150. To check the compliance of the laws in the case of industrial employment, there are inspectors who supervise industrial establishments. However, formal employment in the industrial sector is limited in Bangladesh and there is such a vast supply of unskilled labourers that the inducement to use children is not very great among employers. Besides workers' trade unions can also prevent child work in order to protect their own interests.

5. Sexual exploitation and abuse (art. 34)

151. The true extent and nature of sexual exploitation that occurs in the country is not known. There has not been any comprehensive research on the

are induced to take up the profession owing to acute economic necessity. With little or no education and low skills no other work is easily available. Many of these girls are kidnapped from their homes and sold to brothels.

6. Trafficking, sale and abduction (art. 35)

152. Trafficking, sale and abduction of children is a problem in the country. The Government is aware of the problem and has taken measures to stop such practices. In the absence of systematic statistical information the magnitude and nature of the problem cannot be properly understood. A recent government document estimates that their number may be a few thousand women and children who are subject to trafficking, mainly to Middle Eastern countries, for various purposes. The Penal Code of Bangladesh forbids trafficking of women and children. There are other laws that discourage dealing with women and children for immoral purposes. However, government resources are far too stretched to be effective in stopping these practices. Among the recent administrative measures to discourage trafficking is the strengthening of border check-posts through which such trafficking usually takes place. Campaigns against such activities have also began using the national media.

APPENDIX

Children's laws of Bangladesh

1. The Penal Code, 1860, under section 82 provides that nothing is an offence which is done by a child under 12. Under section 90 of the Code a consent is not a consent if it is given by a person who is under 12 years of age. Kidnapping a male under 14 years of age and a female under 16 years of age from lawful guardianship is an offence under section 361 and kidnapping or abducting a person under the age of 10 is also an offence under section 364A of the Code.

2. The Divorce Act, 1869 deals with the custody, maintenance and education of minor children while their parents are engaged in a lawsuit for separation. The court may order the maintenance, custody and education of children.

3. The Contract Act, 1872 makes a contract by a minor absolutely void. A contract of sale made with the guardian of a minor may be binding only if it were made either for legal necessity or for the benefit of the estate.

4. The Guardians and Wards Act, 1890 empowers a designated court, if it is satisfied that it is for the welfare of the minor, to appoint a guardian of the minor's person or property or both. However, the court cannot appoint any person as guardian against the will of the minor.

5. The Code of Criminal Procedures, 1898 empowers a designated court to order a person having sufficient means and neglecting or refusing to maintain his wife or legitimate or illegitimate child to provide a monthly allowance for maintenance of such wife and children. Under section 562, the court can release certain convicted first offenders under 21 years of age on probation of good conduct instead of sentencing them to imprisonment.

6. The Mines Act, 1923 prohibits employment of a child (under 15 years of age) in a mine and regulates the employment of those above 15 years but below 17 years.

7. The Child Marriage Restraint Act, 1929 provides punishment for a male adult marrying a child (below 16 years of age). It also prescribes punishment for the parent or guardian concerned in a child marriage.

8. The Suppression of Immoral Traffic Act, 1933 provides for punishment for forcing a girl under 18 years into prostitution. Abetment by one having custody or charge of the girl is also a crime.

9. The Children (Pledging of Labour) Act, 1933 provides for penalty for parent or guardian making agreement to pledge the labour of a child and also for employing a child whose labour has been pledged.

10. The Employment of Children Act, 1938 regulates the employment of children in specified industries and occupations and provides for punishment of the

11. The Maternity Benefit Act, 1939 regulates the employment of women for certain periods before and after childbirth and provides for the payment of maternity benefit to them by the employer.

12. The Maternity Benefit (Tea Estate) Act, 1950 prohibits the employment of women in tea gardens or processing factories for certain periods before and after childbirth and provides for the payment of maternity benefits for the period.

13. The Minimum Wages Ordinance, 1961 prohibits employers from payment of juvenile (below 18 years of age) workers below the minimum rates fixed by the Board set up under the Act. This also provides for punishment for contravention.

14. The Shops and Establishment Act, 1965 prohibits employment of children not having completed 12 years of age, in shops and commercial establishments. It further regulates the hours of work for those below 18 years of age.

15. The Factories Act, 1956 lays down regulations aimed at ensuring secure and healthy conditions of work for a child or adolescent. It also provides for facilities (rooms) for children under six years of age of women factory workers.

16. The Children's Act, 1974 provides for the custody, protection and treatment of children, and trial and punishment of youthful offenders by juvenile courts. It also deals with care and protection of destitute and neglected children. It provides, among other safeguards, for the punishment of special offences such as cruelty to children, employment of children for begging, and exploitation of children employees.

In addition to these formal laws, there are a number of personal and religious laws which mainly relate to social customs such as marriage, divorce, guardianship, adoption and inheritance, according to religious prescriptions. These also affect children and some of these have been modified by special legislation to provide somewhat greater rights to women and children.
